

Mayor's Time Stamp

CITY CLERK
City Clerk's Time Stamp

RECEIVED

'95 APR 19 P4:02

DEPUTY MAYOR

'95 APR 19 P4:02

CITY CLERK

SUBJECT TO MAYOR'S APPROVAL

COUNCIL FILE NO. 94-0866

COUNCIL DISTRICT NO. _____

COUNCIL APPROVAL DATE April 12, 1995

RE: CITY POLICY ON BUSINESS IMPROVEMENT DISTRICTS

LAST DAY FOR MAYOR TO ACT N/A
(10 Day Charter requirement as per Charter Section 354)

DO NOT WRITE BELOW THIS LINE - FOR MAYOR OFFICE USE ONLY

APPROVED

*DISAPPROVED

*Transmit objections in writing
pursuant to Charter Section 354

DATE OF MAYOR APPROVAL OR DISAPPROVAL _____

MAYOR

6

COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE
Report/Communication for Signature

Council File Number 94-0866

Committee Meeting Date 4-3

Council Date 4-12

COMMITTEE MEMBER	YES	NO	ABSENT
COUNCIL MEMBER HERNANDEZ, Chair 4/6	/		
COUNCIL MEMBER WALTERS			/
COUNCIL MEMBER WACHS	/		

Remarks Business Improvement
District policy

Adrienne Bass, Legislative Assistant ♦♦♦ Telephone 237-0379

TO THE COUNCIL OF THE
CITY OF LOS ANGELES

Your COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

reports as follows:

	<u>Yes</u>	<u>No</u>
Public Comments	<u>XX</u>	—

COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE REPORT relative to City policy on Business Improvement Districts (BIDs).

Recommendations for Council action, as recommended by the City Attorney, and SUBJECT TO THE APPROVAL OF THE MAYOR:

1. APPROVE the Interim Policy on Business Improvement Districts (BIDs).
2. INSTRUCT the City Attorney to return to the Community and Economic Development Committee in 90 days for further discussion to develop the final policy.

FISCAL IMPACT STATEMENT: No statement was submitted by the City Attorney.

Summary:

On May 24, 1994, a Community and Economic Development (CED) Committee report relative to a contract with the Downtown Business Owners Association to establish an assessment district to provide maintenance, cleaning and security for public areas in Council Districts 9 & 14 was approved by Council. A verbal amending Motion (Walters-Alatorre) was adopted instructing CDD and the CRA to report back on establishing a policy whereby other business districts could be assisted in setting up assessment districts for maintenance, cleaning and security of public areas. On June 10, 1994, another Motion (Walters-Ridley-Thomas) was adopted instructing the City Attorney, with the assistance of CDD, CLA and City Clerk, to develop a comprehensive City policy on the formation, funding and operation of Business Improvement Districts (BIDs).

On August 29 and September 19, 1994, the CED Committee discussed the report from the City Attorney dated 8-29-95 wherein the City Attorney presented a number of issues raised by the working group (City Attorney, CLA, City Clerk, CDD). The matter was again heard at CED meetings held on September 28, October 17 and November 14, 1994. Representatives from the working group and the public raised concerns that were discussed at these meetings and the City Attorney reported that the working group was drafting a recommended

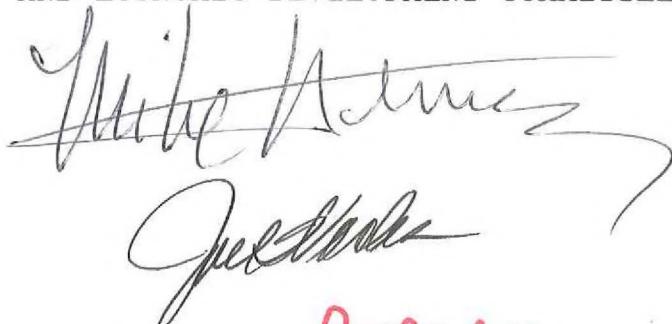
policy and would present it to the CED Committee in early 1995. CED Committee calendared the item for January 9, 1995, and at that time, the City Attorney requested that the matter be held until a written report could be presented to the Committee.

At its regular meeting on April 3, 1995, the CED Committee considered the report from the City Attorney dated 3-31-95 relative to a draft policy on the establishment, funding and operation of BIDs. The City Attorney presented one additional policy issue that had not been discussed in any of the previous meetings: the formation of a BID coordinating unit in either the Mayor's Office or the Community Development Department to assist in establishing and maintaining these districts and to administer the operating contracts for the districts. The CED Committee approved the City Attorney "Interim" policy; however, has recommended that this last policy issue be considered by the full Council before any action can be taken.

Respectfully submitted,

COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

AB
4-4-95



REPORT
ADOPTED

APR 12 1995

LOS ANGELES CITY COUNCIL

Mayor With File - NA

+++++
AGENDA NO. 5-9 YES: 13 NO: 0 ABS: 2 04/12/95 11:26:38
ALARCON.....YES ALATORRE.....YES BERNSON.....YES BRAUDE.....YES
CHICK.....YES GALANTER.....YES GOLDBERG.....YES HERNANDEZ.....YES
RIDLEY-TOMAS YES SVORINICH.....YES WACHS.....YES WALTERS.....YES
FERRARO.....YES HOLDEN.....ABS YAROSLAVSKY.....ABS
+++++

FOR VOTED ON DRAFT

4/12/95

4/12/95

- Petitioner/Communicant _____
- Council Member(s) _____
- Chief Legislative Analyst (Mail Stop 136)
- City Administrative Officer (Mail Stop 130)
- Office of the Mayor (Mail Stop 370)
- Controller (Mail Stop 183)
- Treasurer (Mail Stop 750)
- General Services Department (Mail Stop 710)
- Department of Transportation (Mail Stop 725)
- City Planning Department (Mail Stop 395)
- Community Development Department (Mail Stop 854)
- Community Redevelopment Agency (Mail Stop 182)
- Board of Public Works (Mail Stop 465)
- City Attorney
- Private Industry Council
- City Clerk - attn: Mike Carey
-
-
-



JAMES K. HAHN
CITY ATTORNEY

Office of the City Attorney
Los Angeles, California

CRIMINAL BRANCH
(213) 485-5452

CIVIL BRANCH
(213) 485-6370

WRITER'S DIRECT DIAL
NUMBER (213) 485-5416
FAX: (213) 485-8899

REPORT NO. R95-0102
3/31/95

REPORT RE:

CITY OF LOS ANGELES POLICIES FOR BUSINESS
IMPROVEMENT DISTRICTS

The Honorable Community And
Economic Development Committee
Los Angeles City Council
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

(Council File No. 94-0866 not transmitted herewith)

Honorable Members:

Pursuant to your instructions, the following is a draft of the City of Los Angeles Policies on Business Improvement Districts.

POLICY ON BIDS

1. The proponents of a business improvement district will be required to demonstrate community interest in the following manner before the City invests staff time on establishing a district:

1) The proponents of a new district pursuant to the Parking and Business Improvement Area Law of 1989 must present a petition to be circulated by an established organization within the community and to be in a form prepared by the City Clerk. The petition must contain the signatures of 15% of the business owners before Council authorizes City staff to work with the community organization.

2) The proponents of a new district pursuant to the Property and Business Improvement Law of 1994 must comply with the petition requirements set forth in that Law. (Streets and Highways Code, sections 36600 et seq.).



The Honorable Community And
Economic Development Committee
Council File No. 94-0866
Page 2

3) The proponents of the new district must have an organization established with a board of directors by the time that the City is requested to send out the required notice of public hearings so that the Advisory Board can be appointed by Council at the time Council instructs City staff to send out the notice.

2. The City may advance funds to assist a group in determining whether there is community interest in establishing a business improvement district.

3. The City may advance funds to assist a group in establishing a business improvement district after presentation of a petition demonstrating 15% or greater support for the concept.

The City may assist a business group in its organization efforts. However, only groups that have demonstrated little or no independent financial resources may be assisted. Additionally, the group may be required to provide matching funds.

If funds are advanced, the City may require that the funds be reimbursed if a business improvement district is ultimately established. The City will require any group receiving funds to enter into a contract with the City which would provide that the advanced funds could only be used to formulate a district, a budget and an assessment formula, to communicate and meet with the business owners on these issues and to hire a consultant to assist with these issues.

4. If the City does advance funds, the funding shall come from non-General Fund sources. The parking meter fund can be used for this purpose. The amount to be advanced will depend on the size and complexity of the district and the needs of the group requesting financial assistance.

5. The City shall recover the actual salaries of City staff involved in billing and administration of the district and the salaries of their immediate supervisors. City overhead shall not be recovered. The cost of collection of delinquencies shall be borne by the penalty assessed for late payments.

6. The City may advance funds for the first quarter of a new district so that the district can commence work prior to the collection of the assessments. The funds advanced shall be in an amount not to exceed one quarter of the total assessment. The advanced funds will be deducted from the first quarter disbursement to the district.

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7. The City may establish a limited number of assessment formulas that can be utilized in Business Improvement Districts not only to ensure that there is a demonstrated nexus between the formula and the benefit received, but also to limit the administrative costs of the City for the billing systems that will need to be maintained.

The assessment formulas that can be used will be limited by the City to equitable formulas that result in a clearly demonstrated nexus between the benefit to be received and the amount to be charged. They must also be relatively easy to administer to ensure that the City's cost to administer the billings will be minimal. A flat fee formula is simple and can be structured in many ways to meet the needs of the community, such as having different rates for different types of businesses and for different areas or zones within the district so that there is a reasonable relationship between the rates and the benefits. Generally, flat fee amounts will be encouraged unless the proponents can demonstrate that a different formula will result in a more direct relationship between benefits to be received and the amount to be assessed.

8. If a business improvement district makes physical improvements to City property it must provide insurance to assure no City liability, must bond the improvement work and must submit an estimated cost of maintaining the improvements with the annual proposed budget. The Council may require the improvements to be removed if a district is disestablished.

9. The City will amend the Administrative Code to include an enabling ordinance for business improvement districts under both the Parking and Business Improvement Area Law of 1989 and the Property and Business Improvement District Law of 1994.

The City enabling ordinance will set forth the City's policies including such items as requiring protests to be submitted on City Clerk forms which would make it easier for the City Clerk to determine whether it is a valid protest, the method for appointment of an Advisory Board, the information needed to support an application for a district including such things as a petition, a budget, an assessment formula and documentation showing the formula fairly relates to the benefits to be received, and the City's policy on billing, collections and the administration of the operating contract.

10. Public hearings on the formation and levying of the assessment shall be held at the Council Committee level in addition to the required hearings at the Council.

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Page 4

11. The City shall enter into a contract with the Advisory Board which allows the Board to spend the assessment funds.

In order to allow the Advisory Boards to administer the funds with minimal supervision, the procedures currently utilized by the City Clerk to administer the General City Purposes Fund, which include reporting requirements and desk audits, with the ability to do a complete audit, will be used for these business improvement district contracts. However, the Board will be subject to rules relating to governmental entities. Since the Board would be spending money collected by the City through an involuntary assessment, the City Attorney's Office and the Fair Political Practices Commission has opined that the Board would be a governmental agency for conflict of interest, Brown Act and public records purposes. (A copy of the FPPC opinion is attached to this report.)

12. A contract with the Advisory Board shall be subject to the following:

1) A boiler plate contract will be used for all districts.

2) The contract will include all the procedural requirements for disbursement and use of the funds.

3) The contract will include an obligation to maintain a roster of businesses within the district and to notify the City Clerk of any businesses which enter the district after the initial billing has been sent out.

4) The Ethics Commission will be responsible for any monitoring of the conflicts provisions of the contract.

13. Procedures for administering the contract and establishing a district shall include the following:

1) Funding shall be disbursed quarterly.

2) The funds need not be disbursed in equal installments. They can be tailored to the needs of the particular district.

3) The Advisory Board must submit quarterly statements showing the use of the previous quarterly disbursement and the intended uses of the current quarterly funds.

The Honorable Community And
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Page 5

4) All protests must be made on a form to be supplied by the City Clerk.

5) Requests for the establishment of a new district, after submission of the petition showing community support, must include the following:

a) A proposed budget and work program.

b) A proposed assessment formula.

c) A proposed district boundary.

d) Documentation demonstrating the reasonableness of the budget, the work program and the assessment formula.

e) The by-laws of the proposed Advisory Board.

f) A list of the Board of Directors of the proposed Advisory Board.

6) A group which is only considering requesting the establishment of a district and who therefore is not prepared to submit the items listed above may still request a meeting with City staff to discuss the formation procedures.

7) Any funds remaining at the end of a fiscal year shall be carried over to the next fiscal year.

8) If there are funds remaining at the end of a fiscal year, but the district is disestablished, the remaining funds shall be used first to pay any outstanding City costs. The remainder, if any, shall be returned on a pro-rata basis to the business owners which are still within the former district's boundaries.

9) If a business is not in the district for the entire fiscal year, the business shall be assessed a pro-rated amount for the months it is in the district.

ADDITIONAL POLICY ISSUE

In addition to the above policy statements requested by this Committee, the working group which assisted in formulating these recommendations suggests that the following policy issue be considered by the Committee:

The Honorable Community And
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Should the City establish a BID coordinating unit within either the Mayor's Office of Economic Development or the Community Development Department to assist in establishing and maintaining business improvement districts and to administer the operating contracts for the districts? Currently the City does not have a proactive approach to BIDs. The City Attorney and the City Clerk have directed resources in order to assist in developing the BID program. The City Clerk can continue to be the billing agency for the City, but the policy issue is whether the City should establish a small office with dedicated resources to proactively encourage the creation of BIDs.

Very truly yours,

JAMES K. HAHN, City Attorney

By

Patricia V. Tubert
PATRICIA V. TUBERT
Deputy City Attorney

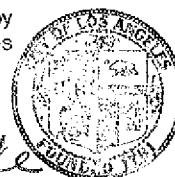
PVT:pe
(213) 485-5416

Attachment

The within instrument approved by
the Council of the City of Los
Angeles at its meeting of

APR 12 1995

By *Judith Clarke*
Deputy



FPPC ATTACHMENT



California Fair Political Practices Commission

CITY ATTORNEY
LAND USE/ENVIRONMENT
RECEIVED
AUG 22 1994

August 17, 1994

Anthony Saul Alperin
Office of the City Attorney
City of Los Angeles
Eighteenth Floor, City Hall East
200 N. Main Street
Los Angeles, CA 90012-4131

Re: Your Request for Informal
Assistance
Our File No. I-94-177

Dear Mr. Alperin:

This letter is in response to your request for advice concerning the status of an Advisory Board of the Broadway Business Improvement District under the Political Reform Act (the "Act").¹ You have indicated that the contract detailing the operating procedures and administrative responsibilities of the Advisory Board is currently being negotiated; we are, therefore, providing you with informal assistance pursuant to Regulation 18329.²

Please note that nothing in this letter should be construed to evaluate any conduct which may have already taken place. In addition, this letter is based on the facts presented to us. The Commission does not act as the finder of fact in providing advice. (In re Ogelsby (1975) 1 FPPC Ops. 71.) Further, the Commission's advice is limited to the provisions of the Act.

QUESTION

Is the Advisory Board of the Broadway Business Improvement District, formed pursuant to Parking and Business Improvement Area Law of 1989 (Streets & Highways Code Section 36500, et seq.) (the

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations, Sections 18000-18954. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

"BID Act") a "local government agency" and are members of the Board "public officials" within the meaning of the Act?

CONCLUSION

The Advisory Board is a "local government agency" and the persons serving on the Board are "public officials" within the meaning of the Act.

FACTS

The California Legislature enacted the BID Act to promote the economic revitalization and physical maintenance of the business districts of California cities. It accomplishes this by allowing those cities to fund property related improvements and activities through the levy of assessments upon businesses which benefit from those improvements and activities. If a local government chooses to establish a Business Improvement District, all businesses located within the district become subject to the assessment levied by the city.

The BID Act provides that the city council of a city establishing a BID shall appoint an Advisory Board. The statutory duties of such an Advisory Board include the preparation of a report for each fiscal year for which assessments are to be levied and collected to pay the costs of the improvements and activities described in the report. Such a report may propose changes in the boundaries of the district, improvements and activities to be provided during the year, the basis and method for levying assessments and changes in the classification of businesses within the district. After reviewing and approving the report, the city council is required to adopt a "resolution of intention to levy an annual assessment for that fiscal year" and to take other actions as it deems appropriate, based on the recommendations of the Advisory Board. The city council may designate existing advisory boards or commissions to serve as the Advisory Board for that purpose.

The Los Angeles City Council (hereafter "city council") has established the Broadway Business Improvement District (BBID) for an area within the city's downtown business district. In accordance with Streets & Highways Code Section 36530, the ordinance establishing the BBID provides that the city council shall appoint an Advisory Board for the BBID. In addition to adopting the ordinance, the city council has instructed the city attorney and the city clerk to negotiate a contract between the city and a private, nonprofit organization, Miracle on Broadway Corporation, for the operation of the BBID and the administration of funds paid pursuant to the assessment authorized by the ordinance and the BID Act. You have indicated that although the contract terms have not yet been finalized, it is expected that the contract will authorize Miracle on Broadway, through the Advisory Board that is expected to serve as the board of directors of Miracle on Broadway, to negotiate and enter into contracts to

perform the improvements and activities previously approved by the city council as part of the BBID annual budget. The contract with Miracle on Broadway will also set forth detailed operating procedures and administrative responsibilities of the Advisory Board.

ANALYSIS

A "local government agency" is defined as:

[A] county, city or district of any kind including school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency of the foregoing.

Section 82041, (emphasis added).

Acting under the authority of the Parking and Business Improvement Area Law of 1989 (Streets & Highways Code Section 36500, et seq.), the Los Angeles City Council, by ordinance, established the Broadway Business Improvement District. That ordinance also created the Advisory Board of the Broadway Business Improvement District. Such a board created by a local government agency, the City of Los Angeles, is, on its face, a local government agency under Section 82041.³

³ You have cited the Commission's opinion in In re Siegel, 3 FPPC Ops. 62 (1977) to support your conclusion that the Advisory Board established by the Los Angeles city ordinance is a local government agency. However, the Commission's opinions in Siegel and In re Leach 4 FPPC Ops. 48 (1978) dealt with the issue whether private entities "become so suffused with attributes of sovereignty as to be considered public in nature." (In re Vonk, 6 FPPC Ops. 1 (1981).) In the Siegel Advice Letter, No. A-83-015, the Commission considered the question whether the Southeast Animal Control Authority, an agency formed pursuant to a joint powers agreement, was a local government agency. While concluding that the Authority was a local government agency the Commission stated:

[I]t is not necessary to go through an analysis of the Siegel [opinion] factors to determine that the Authority is an "agency" which is required to adopt a Code. The Pico Rivera Water Development Corporation [the agency in question in the Siegel opinion] was formed as a nonprofit corporation for the purpose of acquiring and operating a water system. Thus, on its face, the Pico Rivera Water Development Corporation was a private entity. Nevertheless, the Commission held that whether an entity is private or public within the meaning of the Act would depend on the true

Section 82048 states in relevant part:

"Public official" means every member, officer, employee or consultant of a state or local government agency, ...

Section 82048, (emphasis added).

Accordingly, a person who serves on the Advisory Board is a "public official" if he or she is a "member, officer, employee or consultant" of the Advisory Board. (Section 82048.)

Regulation 18700 states in relevant part:

"Member" shall include, but not be limited to, salaried or unsalaried members of boards or commissions with decisionmaking authority. A board or commission possesses decisionmaking authority whenever:

(A) It may make a final governmental decision;

(B) It may compel a governmental decision; or it may prevent a governmental decision either by reason of an exclusive power to initiate the decision or by reason of a veto which may not be overridden; or

(C) It makes substantive recommendations which are, and over an extended period of time have

nature of the entity and developed four criteria for determining an entity's true nature. In the case of the Authority, however, we have an entity that is clearly public on its face; Sections 6500, et seq., authorize public agencies to enter into an agreement for the joint exercise of a common power. Accordingly, the Siegel [opinion] criteria are not necessary to determine that the Authority is an "agency" within the meaning of the Act.

Siegel Advice Letter, No. A-83-015.

Therefore, it is not necessary to apply the Siegel [opinion] factors to determine that the Advisory Board created by ordinance by the Los Angeles City Council is a local government agency within the meaning of Section 82041.

been, regularly approved without significant amendment or modification by another public official or governmental agency.

Regulation 18700(a)(1).

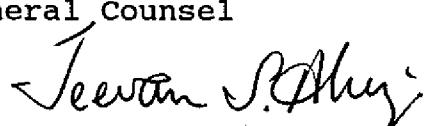
You have indicated that the city council has instructed the city attorney and the city clerk to negotiate a contract between the city and Miracle on Broadway for the operation of the Broadway Business Improvement District and the administration of the funds paid pursuant to the assessment authorized by the ordinance and the BID Act. You believe that the contract will authorize Miracle on Broadway, through the Advisory Board that you expect will serve as its board of directors, to negotiate and enter into contracts to perform the improvements and activities previously approved by the council as part of the Broadway Business Improvement District annual budget. Since it appears that the Advisory Board will be responsible for negotiating and entering into contracts to perform the improvements and activities previously approved, the Advisory Board is making final governmental decisions. Under these circumstances, the persons who serve on the Advisory Board are deemed to be "members", and, therefore, "public officials," within the meaning of Regulation 18700(a)(1). (Section 82048.)

Accordingly, we conclude that the Advisory Board of the Broadway Business Improvement District is a "local government agency" and the persons serving on the Board are "public officials" within the meaning of the Act.

I trust the above discussion responds to your questions. Should you have any further questions regarding this issue, please contact me at 916/322-5901.

Sincerely,

Steven G. Churchwell
General Counsel


By: Jeevan Ahuja
Staff Counsel, Legal Division

SPECIAL MEETING

COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

MONDAY - JANUARY 9, 1995

2:00 P.M. - ROOM 238 - CITY HALL

MEMBERS: COUNCILMEMBER MIKE HERNANDEZ, Chairperson
COUNCILMEMBER RITA WALTERS
COUNCILMEMBER JOEL WACHS

(Adrienne Bass - Legislative Assistant - 237-0379)

COUNCIL COMMITTEE MEETINGS ARE NOW AUDIOPAILED VIA "COUNCIL PHONE". IN LOS ANGELES, CALL (213) 621-CITY, OR CHECK YOUR LOCAL TELEPHONE LISTING FOR THE "COUNCIL PHONE" NUMBER APPLICABLE TO YOUR AREA.

FILE NO.

SUBJECT

(1)

94-1030 Motion (Alarcon-Hernandez) instructing CDD to prepare a report examining the current CIPA/LMPA distribution system and its boundaries and make constructive alterations which reflect current demographic, census and economic realities, etc.

DISPOSITION

(2)

94-1244 CDD report relative to Community Improvement and Planning Area (CIPA) poverty statistics policy and distribution of savings.

DISPOSITION

(3)

94-0043-S2 CDD request to allocate Title III funds for implementation of an employer-based customized training project with Bell Atlantic Professional Service, Inc. and amend the Crenshaw-South Central Comprehensive Jobs Assistance Center (CJAC) PY 94-95 contract operated by UAW-Labor Employment Training Corporation and the Training Institute. (Cont. from 11-14-94)

DISPOSITION

(4)

94-0866 City Attorney report relative to the development for a City policy on the formation, funding and operation of Business Improvement Districts (BID), per Motion (Walters-Ridley-Thomas). (Cont from various meetings)

DISPOSITION *cont 30 days -*

CLA, City Attorney + City Clerk to develop a policy

SPECIAL MEETING

COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

MONDAY - NOVEMBER 14, 1994

3:00 P.M. - ROOM 238 - CITY HALL

MEMBERS: COUNCILMEMBER MIKE HERNANDEZ, Chairperson
COUNCILMEMBER RITA WALTERS
COUNCILMEMBER JOEL WACHS

(Adrienne Bass - Legislative Assistant - 237-0379)

COUNCIL COMMITTEE MEETINGS ARE NOW AUDIOPAILED VIA "COUNCIL PHONE". IN LOS ANGELES, CALL (213) 621-CITY, OR CHECK YOUR LOCAL TELEPHONE LISTING FOR THE "COUNCIL PHONE" NUMBER APPLICABLE TO YOUR AREA.

<u>FILE NO.</u>	<u>SUBJECT</u>
94-1416	(1) CDD status report relative to UDAG Retention and Recapture Program.

DISPOSITION

93-2490	(2) CDD progress report relative to City Human Services Delivery System CSBG Contract No. 94F-1119 first and second quarters 1994.
---------	---------------------------------------------------------------------------------------------------------------------------------------

DISPOSITION

94-1182-S1	(3) CDD request for authority to accept monies for JTPA Title III Rapid Response for PY 1994-95, authority to negotiate and execute a subgrant agreement with EDD and request to hire one clerical staff position.
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DISPOSITION

94-0951	(4) CDD request to amend Contract No. 86546 with the Los Angeles Unified School District to substitute \$187,267 in Title IIA 6% Funds for Title IIA 77% Funds.
---------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------

DISPOSITION

FILE NO.SUBJECT

94-0883 (5) CDD request for proposed new agreement between the City and Willing Workers, Inc. for the renovation of the agency owned facility at 4813 W. Washington Boulevard.

DISPOSITION

94-1852 (6) CDD request for approval of Repayment Plan Agreement for Special Services for Groups, Inc. (SSG).

DISPOSITION

93-0097 (7) CDD request for approval of Environmental Notices for agencies awarded CDBG funds.

DISPOSITION

94-0043-S2 (8) CDD request to allocate Title III funds for implementation of an employer-based customized training project with Bell Atlantic Professional Service, Inc. and amend the Crenshaw-South Central Comprehensive Jobs Assistance Center (CJAC) PY 94-95 contract operated by UAW-Labor Employment Training Corporation and the Training Institute.

DISPOSITION

94-0866 (9) City Attorney report relative to the development for a City policy on the formation, funding and operation of Business Improvement Districts (BID), per Motion (Walters-Ridley-Thomas). (Cont. from various meetings)

*call
Ridley
T. Thomas
no carryover*

DISPOSITION

cont next reg mtg

94-1479 (10) Continued consideration of Motion (Yaroslavsky-Braude) to establish a "Westwood Village Business Improvement District."

DISPOSITION

COMMENTS FROM PUBLIC ON ITEMS OF PUBLIC INTEREST
WITHIN COMMITTEE'S SUBJECT MATTER JURISDICTION

Departments submitting written reports or materials during the committee meeting must provide copies to each committee member and two additional copies to the City Clerk - one copy for the council File and the second copy to be made available for public inspection during the meeting.

cmtagend\cd1114sp.agd

Community and Economic Development Committee
Monday - November 14, 1994

I WISH TO BE HEARD BEFORE THE CITY COUNCIL

AGENDA ITEM NO. 9

TODAY'S DATE 11-14-94

I am speaking FOR AGAINST the Agenda Recommendation

COUNCIL FILE NO.: 94-0864

SUBJECT: BID Policy

Name: ESTELA LOPEZ

Street: 208 W. Third St

City: LA 90013

Telephone: 213 620 0449

Are you speaking on your own behalf? YES NO

If NO, and you are being compensated to speak for or represent someone other than yourself, please disclose who you are representing:

Name: MIRACLE on Broadway

Street: _____

City: _____

(over)

I WISH TO BE HEARD BEFORE THE CITY COUNCIL

AGENDA ITEM NO. 9

TODAY'S DATE 11-14-94

I am speaking FOR AGAINST the Agenda Recommendation

COUNCIL FILE NO.: 94-0866

SUBJECT: CITY POLICY ON FORMATION, FUNDING AND
OPERATION OF BIDS

Name: LEF France

Street: PO BOX 5873

City: WILMINGTON, CA 90607

Telephone: (310) 693-8842

Are you speaking on your own behalf? YES NO

If NO, and you are being compensated to speak for or represent someone other than yourself, please disclose who you are representing:

Name: _____

Street: _____

City: _____

(over)

DOWNTOWN FOCUS

Lee A. Strong
Principal

Consulting Services
Downtown Planning • Programs • Funding
P.O. Box 5573
Whittier, California 90607-5573
(310) 693-8842

November 14, 1994

The Honorable Community And
Economic Development Committee
Los Angeles City Council
Room 395, City Hall
200 North Spring Street
Los Angeles, CA 90012

Comments on Report Re: City of Los Angeles Policies For Business Improvement Districts

Honorable Members:

I have been working for more than ten years as a consultant assisting downtown organizations throughout the State of California in the establishment Business Improvement Districts in their communities. In the City of Los Angeles I was the consultant on the Miracle on Broadway BID and am presently working with the Westwood Village group in their efforts to establish a BID.

I am pleased to have the opportunity to submit these comments on the proposed policies for establishing Business Improvement Districts in the City of Los Angeles.

1. Should the proponents of a business improvement district be required to demonstrate community interest before the City invests staff time on establishing a district?

Staff Recommendation

Staff recommends that a petition be circulated which must contain the signatures of 50% of the business owners before Council authorizes City staff to work with the community organization.

Discussion

City staff notes that a significant amount of time was spent on the proposed San Pedro BID which was ultimately stopped because of a majority protest. It should also be noted that the Miracle on Broadway BID was in process during this period and was ultimately approved by the City Council.

Rec'd in cmte
11/14 ab.

In most cases this requirement for a petition would present an almost impossible burden. This was recognized when legislation permitting the establishment of BIDs was approved by the State Legislature in 1965, in 1979 and again in 1989.

Some of the reasons why this would be a burden are:

A tremendous amount of time would be required to locate and meet with individual business owners, explain the program and convince them to sign a petition.

It would be difficult to find knowledgeable business owners who could devote the time required to circulate the petitions.

There is no assurance that persons signing a petition supporting the BID would not change their minds later on in the process.

Many business owners will support a BID, or not oppose it, but they will not sign a petition to establish it.

A requirement for a petition will discourage many areas from even attempting to establish a BID.

Support for a BID can be demonstrated without requiring the circulation of petitions. Before the City staff becomes involved in the process to establish a BID, the proponents of the district should be able to demonstrate that they have informed all businesses in the area about the proposed BID. The information should include details about the proposed program, budget, boundaries and assessment formula. It should also include reasons why the BID is being considered, the names of organizing committee members and details about the formation process. This information can be disseminated through the news media, by direct mail, by informational meetings and through personal contact by members of the organizing committee.

After the information has been circulated and the business people have been contacted, the proponents of the BID should be able to demonstrate and be confident that there is substantial support for establishment of the BID.

This process was followed in establishing the Broadway BID and has been pursued even more diligently in the proposed Westwood Village BID. A summary of the activities undertaken in this regard by the Westwood Village BID Organizing Committee is Attached.

Staff Recommendation No. 2

City staff recommends that proponents of the new district have an organization established with a board of directors by the time that the city is required to send out the required notices of public hearings.

Discussion

This would be desirable but some areas considering the formation of a BID do not have any formal organization in place. There will need to be some flexibility in imposing this condition.

2. Should the City advance funds to assist a group in determining whether there is community interest in establishing a business improvement district?

Staff Recommendation

City staff recommends that no financial assistance should be given prior to the presentation of an initiating petition. The rationale is that lack of a policy could lead to some groups claiming unfair treatment. Also, the City might be accused of imposing an unwanted assessment on the business community.

Discussion

Since the circumstances vary in each area and with each group, it seems that a blanket policy of no financial assistance might be difficult to administer. Perhaps some guidelines and minimum requirements could be developed so when there are legitimate needs, some financial assistance might be available.

3. Should the City advance funds to assist a group in establishing a business improvement district after presentation of a petition demonstrating 50% or greater support for the concept?

Staff Recommendation

City staff suggests that The City should provide financial assistance to groups with limited financial means after they have presented petitions demonstrating 50% or more support for the district.

Staff further recommends that the funds be used only to formulate a district, a budget and an assessment formula and communicate and meet with the business owners and hire a consultant to assist in these efforts. There would also be a

requirement for matching funds where available and repayment to the City if the district is established.

Discussion

This recommendation is a little confusing. The question refers to contributing funds to a group after demonstration of 50% or greater support. Staff then recommends that the funds be used only to formulate a district, a budget and an assessment formula, to communicate and meet with the business owners on these issues and to hire a consultant to assist with these issues. These are steps that must be taken before any petition could be circulated.

We agree with the suggestions that funding should be provided only to groups that have no independent financial resources. We also agree that the funds should be used in the manner stated above and that if the district is established, the funds should be reimbursed unless it is determined that the funds could be used more advantageously in the district.

4. If the City does advance funds, where would the City obtain the Funds?

Staff Recommendation

Staff recommends that if funds are advanced, they should come from non-General Fund sources. Also, the amount should depend on the size and complexity of the district and the needs of the group requesting financial assistance.

Discussion

We have no problem with the Staff Recommendation. However, we would like to correct any misunderstanding about the consultant fees required to assist in establishing a BID.

The funds requested by Westwood Village were used to fund many activities other than consultant fees. Consultant fees for Westwood Village will amount to less than \$25,000. The same was true for the Broadway Business Improvement District.

5. How extensive a financial commitment does the City want to make to each district?

Staff Recommendation

The district should bear the City's costs after a district is established. This would include the cost of preparing and

mailing the billing, auditing and administering the contract and collecting delinquencies.

Discussion

It is apparent that BIDs have the potential to pay for programs and activities which the City cannot fund on an area wide basis. It also creates an effective public private partnership which can benefit the City and the local business community.

Staff's recommendation represents a reasonable financial commitment for the City and for the BID.

6. **Should the City advance funds for the first quarter of a new district so that the district can commence work prior to the collection of the assessments?**

Staff Recommendation

The City should advance the funds in an amount not to exceed one quarter of the total assessment. The advanced funds will be deducted from the first quarter disbursement to the district.

Discussion

Some districts might have funding from other sources which will enable them to get started without any advance. In those cases where assistance is required, we agree with the Staff recommendation.

7. **Should the City establish a limited number of assessment formulas that can be utilized in business improvement districts not only to ensure that there is a demonstrated nexus between the formula and the benefit received, but also to limit the administrative costs of the City for billing systems that will need to be maintained?**

Staff Recommendation

The assessment formulas should be equitable and demonstrate a clearly demonstrated nexus between the benefit to be received and the amount to be charged. A flat fee formula is simple and can be structured in many ways to meet the needs of the community, such as having different rates for different types of businesses and for different areas or zones within the district. Generally, flat fee amounts should be encouraged unless the proponents can demonstrate that a different formula will result in a more direct

relationship between benefits to be received and the amount to be assessed.

Discussion

We agree that a flat fee assessment formula might be relatively easy to administer, but we do not agree that it can be structured to be equitable or to reflect a direct relationship between benefit and assessment.

A flat fee cannot differentiate between the size of businesses within the classifications or the within the different areas. For example, retail is a logical classification of businesses, but within that classification, there are small, medium and large businesses. These businesses will vary in their ability to pay an assessment and will differ as to the benefits they will experience from the programs and the activities which are undertaken in the district.

As soon as you recognize that these differences exist, ways must be found to reflect this in the final assessment formula. A flat rate assessment cannot be equitable or fair, nor can it demonstrate a nexus between benefits received and assessment paid. It is not reasonable to expect that every establishment in each of the classifications and in each of the areas, should pay the same assessment. As a result, most assessment formulas use gross receipts, square footage, number of employees, or some other factor to reflect the differences in the size, types of businesses, benefits received and location in the district.

When the City of Los Angeles Business Tax Ordinance was enacted, great care was exercised to classify businesses and to assign tax rates that would be as fair as possible to the affected businesses. This does not mean that all assessment formulas should be based on the City Business License Tax. However, some method must be found to compensate for the differences among the businesses as was done in the Business Tax Ordinance.

8. Should business improvement districts be allowed to make physical improvements to City property?

Staff Recommendation

No Recommendation

Discussion

The decision to approve physical improvements should be decided on a case by case basis. Generally speaking, physical improvements should not be approved without a practical and workable maintenance program.

9 Should the City amend the Administrative Code to include an enabling ordinance for business improvement districts?

Staff Recommendation

The City should adopt an enabling ordinance which would set forth the City's policies including such items as forms for submitting protests, method for appointment of an Advisory Board, assessment formula, etc.

Discussion

We agree that the City of Los Angeles should enact its own enabling ordinance for establishing Business Improvement Districts. This would create a better process and provide for a better understanding by all parties about the requirements for establishing of a BID.

10. Should the City enter into a contract with the Advisory Board which allows the Board to spend the assessment funds?

Staff Recommendation

The City should allow the Boards to administer the funds with minimal supervision.

Discussion

We agree with this recommendation.

11. Should the City set a limit on the amount of compensation an Advisory Board can give its manager or executive director?

Staff Recommendation

The City Council should not set a limit on compensation. However, since the amount of compensation is part of the budget which the Council must approve, the Council should review the recommended compensation on a case by case basis to determine if it is reasonable for the size and complexity of the programs being undertaken by the district.

Discussion

We agree with Staff Recommendation

12. Should public hearings on the formation and levying of the assessment be held at the Council Committee level in addition to the required hearings at the Council?

Staff Recommendation

The Council should send these matters to a Committee prior to the formal noticed public hearings required by state law with some notice of the Committee hearing being given to the business community.

Discussion

We agree with Staff Recommendation but do not believe that the notification needs to be as extensive as that required for the Council public hearings.

13. Should the City require districts to begin with small work programs and then allow for incremental growth?

Staff Recommendation

Since a business improvement district is requested by the business community, it should be up to them to decide how they want to structure the work program. Before establishing a district or levying the annual assessment, the City Council would still have the option of reducing the assessment, budget, boundaries or work program if the Council determines that the Advisory Board's recommendations are not realistic.

Discussion

We agree with the Staff Recommendation

14. Additional Recommendations

Discussion

We agree with these recommendations.

PROCESS TO ESTABLISH A BUSINESS IMPROVEMENT DISTRICT (BID) IN WESTWOOD VILLAGE

1. In 1991 the Westwood Village Association created the Westwood Village Management Corporation.
2. In 1992 the City of Los Angeles loaned the Westwood Village Management Corporation \$600,000 for a three year period to begin its management and promotional activities and to establish permanent funding through a Business Improvement District.
3. In 1993 Westwood Village Management Corporation hired an Executive Director and an Office Manager, and started its event and business programming and management activities. Meetings were held throughout the year with merchants, professionals, property owners residents and the Westwood Village Association to discuss management objectives and to build support for a permanent program and management funding through the BID mechanism.
4. In January 1994 a Business Improvement District consultant, Mr. Lee Strong was retained by the Westwood Village Management Corporation to assist in the establishment of the Westwood Village BID.
5. In February 1994 a 10 member BID Formation Committee representing small, medium and large businesses and the professional community was established. Regular meetings have been held every other week since that time.
6. In March and April the BID Committee established management priorities and a general budget for the Westwood Village BID organization.
7. In May and June the BID Committee established the boundaries and benefit zones for the District, adopted an equitable assessment formula and prepared an information brochure to be sent to all businesses in the area.
8. In July an information and outreach program throughout the proposed BID area was initiated, and to date, has included the following:
 - An information brochure explaining the BID and inviting questions was sent via first class mail to 1200 businesses;
 - A second mailing explaining the BID was sent to 900 professionals, primarily in Wilshire Boulevard office buildings;
 - Newspaper articles in the Los Angeles Times, Westwood News and the Westsider;
 - Ads placed in the Westwood News seeking comments and support for the BID;

- Meeting held with leasing managers of Wilshire Boulevard office buildings to assure accurate BID information is received by tenants;
- Five teams of BID Formation Committee members walk door to door of 300 merchants, distributing copies of the brochure and discussing the BID with the business owners and managers.

9. Reaction to the BID:

- Support: There is widespread support for the BID, estimated to be in the 70% to 75% range.
- Will not commit: A group of business owners, about 20% to 25%, will not commit to support or oppose formation of the BID.
- Opposed: Some business owners have expressed opposition to the BID, although no specific group has come forth. This group is in the 5% to 10% range.

SPECIAL MEETING

COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

WEDNESDAY - SEPTEMBER 28, 1994

2:00 P.M. - ROOM 250B - CITY HALL

MEMBERS: COUNCILMEMBER MIKE HERNANDEZ, Chairperson
COUNCILMEMBER RITA WALTERS
COUNCILMEMBER JOEL WACHS

(Adrienne Bass - Legislative Assistant - 237-0379)

COUNCIL COMMITTEE MEETINGS ARE NOW AUDIOPAILED VIA "COUNCIL PHONE". IN LOS ANGELES, CALL (213) 621-CITY, OR CHECK YOUR LOCAL TELEPHONE LISTING FOR THE "COUNCIL PHONE" NUMBER APPLICABLE TO YOUR AREA.

<u>FILE NO.</u>	<u>SUBJECT</u>
94-0866	(1) City Attorney report relative to the development of a City policy on the formation, funding and operation of Business Improvement Districts (BID), per Motion (Walters - Ridley-Thomas). (Con't from various meetings) DISPOSITION <u>Continued</u>
94-1479	(2) Motion (Yaroslavsky-Braude) relative to the establishment of a "Westwood Village Business Improvement District". DISPOSITION _____

COMMENTS FROM PUBLIC ON ITEMS OF PUBLIC INTEREST
WITHIN COMMITTEE'S SUBJECT MATTER JURISDICTION

Departments submitting written reports or materials during the committee meeting must provide copies to each committee member and two additional copies to the City Clerk - one copy for the council file and the second copy to be made available for public inspection during the meeting.

cmtagend\cd0928sp.agd

(5)

- 92-0668 CDD request for authority to execute contract amendments for earthquake recovery business assistance services for the Valley Economic Development Center, USC, Los Angeles Community Reinvestment Committee and the Pacific Asian Consortium. (Also referred to Ad Hoc Earthquake Committee) (Cont from 10-3-94)
- Not file*

DISPOSITION

*app - business allocations
(add 50% allocation)*

(6)

- 94-0043 CDD report relative to allocation of Title III and Title IIA funds for implementation of employer-based customized training projects with White Memorial Medical Center and American Drug Stores, amending East Los Angeles and Mid-Wilshire Comprehensive Jobs Assistance Centers (CJAC) contracts and authorize PIC and GM of CDD to review, approve, negotiate and execute customized training agreements.
- Not file*

DISPOSITION

app - CAO random.

for (7)

- 94-0866 Status reports from the CLA and City Attorney relative to the development for a City policy on the formation, funding and operation of Business Improvement Districts (BID), per Motion (Walters-Ridley-Thomas). (Cont from various meetings.)

DISPOSITION

cont

(8)

- 94-0043-S1 CDD request for authority to negotiate, execute or amend contract agreements with UAW-Labor Employment Training Corporation (UAW-LET) to include funding allocations to sole source contract with the USC Multimedia and Creative Technologies Research Center to provide JTPA Title III EDWAA Act training and placement services.
- Not file*

DISPOSITION

app - CAO random.

COMMENTS FROM PUBLIC ON ITEMS OF PUBLIC INTEREST
WITHIN COMMITTEE'S SUBJECT MATTER JURISDICTION

Departments submitting written reports or materials during the committee meeting must provide copies to each committee member and two additional copies to the City Clerk - one copy for the council file and the second copy to be made available for public inspection during the meeting.

I WISH TO BE HEARD BEFORE THE CITY COUNCIL

AGENDA ITEM NO. 94-0861

TODAY'S DATE 11/28/94

I am speaking FOR AGAINST the Agenda Recommendation

COUNCIL FILE NO.: 94-0866

SUBJECT: City Policy on Funding and Operations
of Business Improvement District

Name: LEE FRONG

Street: 105 GREENYEAR Ave

City: WILMINGTON, CA 90607

Telephone: (310) 693-8842

Are you speaking on your own behalf? YES NO

If NO, and you are being compensated to speak for or represent someone other than yourself, please disclose who you are representing:

Name: _____

Street: _____

City: _____

(over)

I WISH TO BE HEARD BEFORE THE CITY COUNCIL

2/ AGENDA ITEM NO. #1

TODAY'S DATE 7-28

I am speaking FOR [] AGAINST [] the Agenda Recommendation / 600,000

COUNCIL FILE NO.: 94-0866

SUBJECT: City Policy - BID

Name: Thomas H. Carroll

Street: 1010 Westwood Blvd.

City: Los Angeles

Telephone: 310-208-1984

Are you speaking on your own behalf? YES [] NO [✓]

If NO, and you are being compensated to speak for or represent someone other than yourself, please disclose who you are representing:

Name: Westwood Village Management Corp

Street: 1010 Westwood Blvd.

City: Los Angeles Ca 90024

(over)

What relationship do you have with the person you are speaking for or representing? (Check as many as apply)

[] Lobbyist for person.

[✓] Employee of the person.

[] Attorney for person.

[] Other: _____

Are you registered as a Lobbyist with the City Ethics Commission?*

YES [] NO [✓]

* Any questions about the City's Lobbying Law should be directed to the City Ethics Commission at (213) 237-0310. You may also go to the Commission Office at 201 N. Los Angeles Street, L.A. Mall, Suite 2, Los Angeles, CA 90012.

PLEASE GIVE THIS CARD TO ONE OF THE TWO POLICE OFFICERS AT THE FRONT OF THE COUNCIL ROOM WELL BEFORE YOUR ITEM IS TO BE HEARD BY THE CITY COUNCIL.

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I WISH TO BE HEARD BEFORE THE CITY COUNCIL

AGENDA ITEM NO. #1TODAY'S DATE 9/28/94I am speaking FOR AGAINST the Agenda RecommendationCOUNCIL FILE NO. 94-0866SUBJECT: BID ordinanceName: ESTEZA LOPEZStreet: 208 W. 3rd STCity: LA 90013Telephone: 213 620 0444Are you speaking on your own behalf? YES NO

If NO, and you are being compensated to speak for or represent someone other than yourself, please disclose who you are representing:

Name: Miracle on Broadway BID

Street: _____

City: _____

(over)

What relationship do you have with the person you are speaking for or representing? (Check as many as apply)

 Lobbyist for person. Employee of the person. Attorney for person. Other: _____

Are you registered as a Lobbyist with the City Ethics Commission?*

YES NO

* Any questions about the City's Lobbying Law should be directed to the City Ethics Commission at (213) 237-0310. You may also go to the Commission Office at 201 N. Los Angeles Street, L.A. Mall, Suite 2, Los Angeles, CA 90012.

PLEASE GIVE THIS CARD TO ONE OF THE TWO POLICE OFFICERS AT THE FRONT OF THE COUNCIL ROOM WELL BEFORE YOUR ITEM IS TO BE HEARD BY THE CITY COUNCIL.

FILE NO.SUBJECT

(5)
94-0082-S53 CDD report relative to supplemental CDBG earthquake monies.

DISPOSITION _____

(6)
94-0082-S62 CDD report relative to receipt and execution of contract and request for RFP release for special Community Services Block Grant (CSBG) earthquake related programming.

DISPOSITION _____

(7)
92-2189 CDD status report relative to Catholic Charities of Los Angeles' Hope in Youth Project.

DISPOSITION _____

(8)
94-1447 Public Safety Committee report relative to Request for Proposals (RFP) for the Special Youth Development and Gang Prevention and Intervention Program (LA City Stars) and addendum to Contract No. 87490 with Catholic Charities. (Continued in Council 9-27-94 and referred to Committee in the interim)

DISPOSITION _____

(9)
94-1415 CDD request for approval of policy statement of equal opportunity and nondiscrimination for JTPA program administered by the City of Los Angeles Service Delivery Area (SDA).

DISPOSITION _____

(10)
94-0866 City Attorney report relative to the development of a City policy on the formation, funding and operation of Business Improvement Districts (BID), per Motion (Walters - Ridley-Thomas). (Continued from 8-29-94)

DISPOSITION _____

cont special meeting 9/28

(11)
94-1479 Motion (Yaroslavsky-Braude) relative to the establishment of a "Westwood Village Business Improvement District".

DISPOSITION _____

(6)
94-0977-S1 CDD report relative to proposed Memorandum of Understanding with the Department of General Services for the renovation of the various City-owned facilities utilizing 20th Year HCDBG funds and request to make technical adjustments.

DISPOSITION

(7)
94-0866 CDD report relative to the development of a city policy on the formation, funding and operation of Business Improvement Districts per Motion (Walters-Ridley - Thomas).

DISPOSITION

cont 9-19 - notify all Council members + give CLA report

(8)
93-1462-S1 Motion (Walters-Ferraro) relative to reprogramming \$150,000 in Disaster Assistance Loan Writedown Program funds to be used by the Industrial Community Revitalization, Inc. for the Incore Business Improvement District (Continued in Council on 8-30-94)

DISPOSITION

(9)
94-1271 CDD report requesting authority to negotiate and execute a Small Business Fund (SBF) contract with Greater Los Angeles Council on Deafness, Inc. (GLAD).

DISPOSITION

(10)
93-0479 CDD report requesting authority to reallocate an amount not to exceed \$2 million in JTPA Title III Earthquake Disaster funds and contract with California State University Northridge.

DISPOSITION



JAMES K. HAHN
CITY ATTORNEY

Office of the City Attorney
Los Angeles, California

CRIMINAL BRANCH
(213) 485-5452

CIVIL BRANCH
(213) 485-6370

WRITER'S DIRECT DIAL
(213) 485-5416
NUMBER _____
FAX: (213) 485-8899

REPORT NO. R94-0289
8/29/94

REPORT RE:

CITY OF LOS ANGELES POLICIES FOR BUSINESS
IMPROVEMENT DISTRICTS

The Honorable Community And
Economic Development Committee
Los Angeles City Council
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

(Council File No. 94-0866 not transmitted herewith)

Honorable Members:

Pursuant to the Council's motion of June 14, 1994, the City Attorney formed a working group with the City Clerk, the Legislative Analyst and the Community Development Department to respond to the Council's request for a comprehensive City policy on Parking and Business Improvement Districts (BID) and an evaluation and recommendation regarding pending State legislation (AB 3754). The first part of this report deals with recommendations for a comprehensive City policy while the second part reviews the State legislation.

A. Policy On BIDs.

The following is a list of issues which the working group felt should be considered by the Council. The first 13 issues are presented as questions with a brief discussion of the issue and a recommended policy. The second 13 issues are self-explanatory and, therefore, are listed as recommendations without discussion.

1. Should the proponents of a business improvement district be required to demonstrate community interest before the City invests staff time on establishing a district?

The Honorable Community And
Economic Development Committee
Council File No. 94-0866
Page 2

a. Discussion: A significant amount of staff time can be expended on a proposed district which does not have the support of the businesses in the district. For example, the City Clerk, Legislative Analyst and City Attorney spent months over the course of two years working on the San Pedro Business Improvement District which was ultimately stopped due to a majority protest. Future districts should take less time but would still require staff to canvass the area, prepare and mail notices, ordinances and negotiate contracts prior to the formation of the district.

b. Recommendations:

1) Require the presentation of a petition to be circulated by an established organization within the community and to be in a form prepared by the City Clerk. The petition must contain the signatures of 50% of the business owners before Council authorizes City staff to work with the community organization. Although 50% of the business owners may not equal 50% of the assessment, such a petition would permit the Council to determine whether the majority of the business community is interested in assessing itself before City staff time is utilized.

2) Require the proponents of the new district to have an organization established with a board of directors by the time that the City is requested to send out the required notice of public hearings so that the Advisory Board can be appointed by Council at the time Council instructs City staff to send out the notice. This would give staff a definite legal entity with which to negotiate. It would also prevent the reoccurrence of Council having to appoint a group which does not yet exist as the Advisory Board. By having the Board in place, including its membership, the Council could make an informed choice on the appropriate appointments. This would also give the business community knowledge of the membership of their board prior to the expiration of the protest period.

2. Should the City advance funds to assist a group in determining whether there is community interest in establishing a business improvement district?

a. Discussion: Some organizations have come to the City and requested funding to determine if the community is interested in forming a business improvement district. Others have requested funding to hire a consultant to determine what the community would like included in the budget, who should be included in the district and how the businesses should be assessed. Others have had indirect public financing through the CRA or CDD funding

The Honorable Community And
Economic Development Committee
Council File No. 94-0866
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a revitalization organization. Still others are using their own resources to determine if there is interest and to prepare a plan for presentation to the Council. The question arises whether the City should have a set policy on this issue or deal with it on a case by case basis. The problem with the latter approach is the potential for some groups to claim they are being treated unfairly.

b. Recommendation: No financial assistance should be given prior to presentation of an initiating petition. Since the Business Improvement District Act is intended to give business owners a vehicle by which they can seek City assistance in assessing and collecting funds to promote the area, the City should remain neutral until such time as the community demonstrates an interest in the program. Otherwise, the City's early involvement could be interpreted as the City imposing an unwanted assessment on the community.

3. Should the City advance funds to assist a group in establishing a business improvement district after presentation of a petition demonstrating 50% or greater support for the concept?

a. Discussion: See discussion in paragraph 2.a.

b. Recommendation: Yes. If financially possible, the City could assist a business group in its organization efforts. However, since money is scarce, only groups that have no demonstrated independent financial resources should be assisted. If the Council wishes to assist groups which have limited financial means, the group should be required to provide matching funds.

If funds are advanced, the City should require that the funds be reimbursed if a business improvement district is ultimately established. The City should also require the group receiving the funds to enter into a contract with the City which would provide that the advanced funds could only be used to formulate a district, a budget and an assessment formula, to communicate and meet with the business owners on these issues and to hire a consultant to assist with these issues.

4. If the City does advance funds, where would the City obtain the funding?

a. Discussion: It is not inexpensive to hire a consultant and to hold community meetings to determine the desire for a district and then the extent of the assessment and the purposes for which the assessment revenues will be spent. The

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Economic Development Committee
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Westwood group requested \$600,000.00 over three years to hire a consultant to investigate establishing several different districts to revitalize the area. The Downtown Property Owners Association obtained a grant of \$125,000.00 just to determine if there is interest among the property owners. The INCORE group is requesting \$150,000.00 to use to formulate an assessment plan.

b. Recommendation: If funds are advanced, they should come from non-General Fund sources. Since a business improvement district is intended to benefit a specific business area, general tax money should not be used to promote one part of the City over businesses in other City areas. The amount to be advanced should depend on the size and complexity of the district and the needs of the group requesting financial assistance.

5. How extensive a financial commitment does the City want to make for each district?

a. Discussion: It is costly for the City to assist in setting up and administering a business improvement district. City staff has not specifically kept track of actual staff time devoted to the various activities that have occurred relative to the several proposed BID's that are under active consideration. We are attempting to generate a rough estimate to give the Council Committee and Council an order of magnitude estimate of the City costs expended up to this point. As soon as we have the rough estimate we will communicate it to the Committee.

The issue here is whether the City wishes to have all of its costs paid from the assessment proceeds or only a portion of those costs. Any assessment funds spent paying the City for its staff, is revenue which cannot be used for direct improvements to the district. The proponents of the Broadway Business Improvement District have indicated that other cities have assumed the cities' total costs. However, in these difficult financial times the City of Los Angeles may simply not be able to afford to assume all the costs.

In the only business improvement district currently in the City, the Broadway Business Improvement District, the City has absorbed all the City costs prior to the establishment of the district. These costs include the time spent in many meetings with the proponents and public hearings, drafting documents, canvassing the area to obtain the names and addresses of all the businesses and mailing notices and ordinances. However, it should be noted that the City Clerk has utilized the additional revenue obtained by canvassing the neighborhood, which resulted in

The Honorable Community And
Economic Development Committee
Council File No. 94-0866
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the discovery of businesses which were not paying their business license tax, to cover most of the City Clerk's costs of pre-establishment work.

If many assessment districts are instituted throughout the City, additional staff might be necessary for the City Clerk to canvass the area to determine what businesses are in the district, mail notices and billings, follow-up on new businesses and on delinquent accounts and administer the operating contract with the Advisory Board.

Additionally, since the City has no prior experience in this area, the staff cannot estimate the time or cost of having to pursue litigation to collect delinquent assessments. Since these are unsecured assessments, once a judgment is entered the City would still have to get the judgment executed. This may be a serious problem in districts with large numbers of protestors.

b. Recommendation: The district should bear the City's costs after a district is established. This would include the cost of preparing and mailing the billing, auditing and administering the contract and collecting delinquencies.

6. Should the City advance funds for the first quarter of a new district so that the district can commence work prior to the collection of the assessments?

a. Discussion: Unless money is collected before the start of the district's fiscal year, it can take up to two months to collect the majority of the assessments after the initial bills are sent out. A new district would not have money to pay its staff or to enter into any contracts if it does not have a reimbursable advance from the City or funding from another source.

b. Recommendation: The City should advance the funds in an amount not to exceed one quarter of the total assessment. The advanced funds would be deducted from the first quarter disbursement to the district. However, the City does run the risk of not having the money reimbursed in a timely fashion if many business owners refuse to pay and the City is required to sue them to obtain the delinquent assessments.

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Economic Development Committee
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7. Should the City establish a limited number of assessment formulas that can be utilized in Business Improvement Districts not only to ensure that there is a demonstrated nexus between the formula and the benefit received, but also to limit the administrative costs of the City for the billing systems that will need to be maintained?

a. Discussion: The more complicated an assessment formula, the more difficult it is to demonstrate the nexus between the formula and the benefit to be received. With a complex formula, the individual business owner and the Council will have difficulty in understanding the relationship between what is being charged and the benefit to be received. Furthermore, it will be difficult for the City to administer different billing formulas and systems for each district. To date, we have seen three different formulas: one was based on gross receipts; a second was based on flat rates depending on the type of business; and, the third was based on a fee per gross square footage of improvements.

The City's primary concern must be that the formula is fair in that it represents a reasonable relationship between the benefit received and the assessment paid. This fundamental policy can be troublesome with any assessment formula. As an example, the use of a formula based on the City's business license tax, which in most instances is measured by the gross receipts of the business, can create problems between very similar businesses when the assessment amount is very different. This problem can arise in those situations when the majority of the gross receipts from one of the businesses to be assessed come from transactions outside the city, and, therefore, are not taxable and not includable in the amount to be assessed.

b. Recommendation: The assessment formulas that can be used should be limited by the City to equitable formulas that result in a clearly demonstrated nexus between the benefit to be received and the amount to be charged. They should also be relatively easy to administer to ensure that the City's cost to administer the billings will be minimal. A flat fee formula is simple and can be structured in many ways to meet the needs of the community, such as having different rates for different types of businesses and for different areas or zones within the district so that there is a reasonable relationship between the rates and the benefits. Generally, flat fee amounts should be encouraged unless the proponents can demonstrate that a different formula will result in a more direct relationship between benefits to be received and the amount to be assessed.

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8. Should business improvement districts be allowed to make physical improvements to City property?

a. Discussion: If a business improvement district is allowed to use the assessment funds to install special sidewalks, landscaping or street lights, the maintenance of these facilities would become the City's responsibility if the district was ever disestablished. Currently, if property owners want special sidewalks, the City requires them to covenant to maintain those sidewalks. The City could not require the business owners to place such a covenant on the land since the business owner will usually not be the landowner. Future maintenance assessment districts could possibly be instituted depending on the nature of the improvement.

b. Recommendation: We have no recommendation.

The City must decide if having attractive streets is important enough to take on this future maintenance responsibility. Another possibility is to remove the improvements if the district is disestablished. However, the removal would also result in costs to the City.

It should also be noted that if the Council does allow the district to construct public improvements, the district is required by law to comply with all state and local regulations regarding the construction of public improvements.

9. Should the City amend the Administrative Code to include an enabling ordinance for business improvement districts?

a. Discussion: The state law permitting business improvement districts is very vague on procedural issues.

b. Recommendation: The City should adopt an enabling ordinance which would set forth the City's policies including such items as requiring protests to be submitted on City Clerk forms which would make it easier for the City Clerk to determine whether it is a valid protest, the method for appointment of an Advisory Board, the information needed to support an application for a district including such things as a petition, a budget, an assessment formula and documentation showing the formula fairly relates to the benefits to be received, and the City's policy on billing, collections and the administration of the operating contract.

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10. Should the City enter into a contract with the Advisory Board which allows the Board to spend the assessment funds?

a. Discussion: The state law does **not** include any language which gives the Advisory Board a right to administer the assessment funds. The law states that the Council shall appoint an Advisory Board and that the Advisory Board shall make a recommendation to the Council on the expenditure of the assessment revenues. The Advisory Board also has the responsibility of preparing an annual report recommending the budget, the assessment formula and any changes in the district for the following fiscal year. The Council can adopt or modify that report or any portion of the report. The assessment revenues can only be used for the items on the Council's adopted budget.

It appears, however, that the intent of the law is to give local business owners control of the funds so that they can use the money for those things which both they and the Council agree will benefit the district. It is our understanding that all other cities in the State contract with the Board or a similar organization to administer the funds. Some cities require Council approval of any contacts entered into by the Board; others only review the contracts to insure that they are consistent with the items approved in the budget.

b. Recommendation: The City should allow the Boards to administer the funds with minimal supervision. The procedures currently utilized by the City Clerk to administer the General City Purposes Fund, which include reporting requirements and desk audits, with the ability to do a complete audit, should also be used for these business assessment district contracts. This would promote greater participation by the businesses in the district and permit the district to be in control of the success, or failure, of their endeavors. However, the Board will be subject to rules relating to governmental entities. Since the Board would be spending money collected by the City through an involuntary assessment, the City Attorney's Office and the Fair Political Practices Commission has opined that the Board would be a governmental agency for conflict of interest, Brown Act and public records purposes. (A copy of the FPPC opinion is attached to this report.)

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11. Should the City set a limit on the amount of compensation an Advisory Board can give its manager or executive director?

a. Discussion: Some concern has been expressed that assessment funds would be spent for overly generous compensation for the director of the Advisory Board. That is, for the person that is running the day to day operations of the district. Since each district will be composed of a different number of businesses and will have different budgets, it would be difficult to determine a flat amount which would be reasonable compensation for every district.

b. Recommendation: The Council should not set a limit on compensation. However, since the amount of compensation is part of the budget which the Council must approve, the Council should review the recommended compensation on a case by case basis to determine if it is reasonable for the size and complexity of the programs being undertaken by the district.

12. Should public hearings on the formation and levying of the assessment be held at the Council Committee level in addition to the required hearings at the Council.

a. Discussion: State law requires that there be two noticed public hearings on the issue of the formation of the district and the levy of assessments. Notice must be sent out within specific time limits. The notices must state the time and place for the hearings. Business owners could more effectively express their concerns and influence both the amount of the assessment and the uses of the assessment if they are allowed to make a presentation at a Committee hearing. However, only the Council can make the determination to establish a district or to levy an assessment.

b. Recommendation: The Council should send these matters to a Committee prior to the formal noticed public hearings required by state law with some notice of the Committee hearing being given to the business community.

13. Should the City require districts to begin with small work programs and then allow for incremental growth?

a. Discussion: A concern has been expressed that if the first year's work program is too ambitious, the business owners will protest the following year because they will not have

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seen all the benefits which the proponents advertised. The result could be the termination of a district which might have been successful if it had been given a few years to get established. On the other hand, a group which does not promise too much at the beginning is less likely to make anyone unhappy.

b. Recommendation: Since a business improvement district is requested by the business community, it should be up to them to decide how they want to structure the work program. City staff would be available to discuss options and to give new groups the benefit of any experience the staff might have. Before establishing a district or levying the annual assessment, the City Council would still have the option of reducing the assessment, budget, boundaries, or work program if the Council determines that the Advisory Board's recommendations are not realistic.

14. Additional Recommendations:

The following recommendations are self-explanatory and are, therefore, listed without discussion:

a. Contract with the Board.

- 1) A boiler plate contract should be used for all districts.
- 2) The contract should include all the procedural requirements for disbursement and use of the funds.
- 3) The contract should include an obligation to maintain a roster of businesses within the district and to notify the City Clerk of any businesses which enter the district after the initial billing has been sent out.
- 4) The Ethics Commission should be responsible for any monitoring of the conflicts provisions of the contract.

b. Procedures.

- 1) Funding should be disbursed quarterly.
- 2) The funds need not be disbursed in equal installments. They can be tailored to the needs of the particular district.
- 3) The Board must submit quarterly statements showing the use of the previous quarterly disbursement and the intended uses of the current quarterly funds.

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4) All protests must be made on a form to be supplied by the City Clerk.

5) Requests for the establishment of a new district, after submission of the petition showing community support, must include the following:

- a) A proposed budget and work program.
- b) A proposed assessment formula.
- c) A proposed district boundary.
- d) Documentation demonstrating the reasonableness of the budget, the work program and the assessment formula.

e) The by-laws of the proposed Advisory Board.

f) A list of the Board of Directors of the proposed Advisory Board.

6) A group which is only considering requesting the establishment of a district and who therefore is not prepared to submit the items listed above may still request a meeting with City staff to discuss the formation procedures.

7) Any funds remaining at the end of a fiscal year shall be carried over to the next fiscal year.

8) If there are funds remaining at the end of a fiscal year, but the district is disestablished, the remaining funds shall be used first to pay any outstanding City costs. The remainder, if any, shall be returned on a pro-rata basis to the business owners which are still within the former district's boundaries.

9) If a business is not in the district for the entire fiscal year, the business shall be assessed a pro-rated amount for the months it is in the district.

B. AB 3754 (Caldera).

Council's action of June 14, 1994, also instructs the Chief Legislative Analyst, in consultation with the City Attorney, Community Development Department and the City Clerk, to evaluate and make recommendations regarding pending State legislation that supplements business improvement district (BID) authority to include assessments on property owners for a period of up to five years. The cited legislation is AB 3754 (Caldera) which, if adopted by the State Legislature, would enact the Parking and Business Improvement District Law of 1994, California Streets and Highways Code, section 36600 et seq.

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1. Summary.

In April 1994, the City took a position in support of AB 3754. Notwithstanding this prior action, the Chief Legislative Analyst has held additional discussions with representatives of the City Attorney, City Clerk and Community Development Department who again reviewed the Caldera measure. These consultations reaffirmed staff's belief that the City should continue to support this measure. AB 3754 will be heard by the Senate on Third Reading, Monday, August 29, 1994.

AB 3754 would supplement existing BID legislation under the Parking and Business Improvement Area Law of 1989. Existing law authorizes any city to establish a parking and business improvement area for the purpose of levying benefit assessments on owners of businesses within the area to fund certain improvements and activities. AB 3754 expands this authorization to include property owners (non-residential); such assessments could be levied for up to five years. AB 3754 does not affect nor in any way change existing BID law for assessments on business owners.

An AB 3754 business district is initiated by petition of property owners who will pay more than 50% of the assessment to be levied. The city may then adopt a Notice of Intention, hold required public hearings and if there is no majority project, adopt the required ordinances establishing the district, assessment rates, boundaries and other matters. The city also approves the BID's, work program, budget, advisory board and assessment rate formula. Funds collected by the city from the assessment can flow back to the advisory board for implementation of the work program through a contractual agreement with the city. (However, it should be noted that AB 3754, like existing law, is silent on this issue.)

While acknowledging that existing BID legislation provides a useful vehicle for commercial area revitalization, proponents of this bill assert that without extending assessment authority to property owners, a city's ability to provide supplemental services and programs that benefit businesses and property owners (e.g., increased maintenance, increased security, graffiti removal, marketing programs) are limited. In some commercial areas there are too few businesses to finance desired changes. Also, certain improvements that may be undertaken such as benches, trash cans, kiosks or fountains fit better within the provisions of AB 3754. Proponents have stated that at least 38 other states have statutes that authorize property owner assessment for the creation of business improvement and commercial management areas, and they cite the revitalization of commercial centers in Portland, Philadelphia, Baltimore and Denver as examples of the

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success of this type of BID. AB 3754 is seen as an additional tool in the advancement of commercial area revitalization.

2. Specific Provisions.

AB 3754 creates the Parking and Business Improvement District Law of 1994 and would provide the following:

1. Activities. Districts can acquire, construct, install, or maintain any tangible property with a useful life of at least five years including:

- a. Parking facilities.
- b. Benches, booths, kiosks, display cases.
- c. Trash receptacles and public restrooms.
- d. Lighting and heating facilities.
- e. Decorations.
- f. Fountains.
- g. Parks and planting areas.
- h. Street closing, opening, widening, or narrowing.
- i. Security facilities and equipment.
- j. Ramps, sidewalks, and pedestrian malls.
- k. Rehabilitation and removal of structures.

Districts may also provide the following services:

- a. Promote public events benefiting the district.
- b. Furnish music.
- c. Promote tourism within the district.
- d. Marketing and economic development.
- e. Provide security, sanitation, and street and sidewalk cleaning.
- f. Activities which benefit businesses and real property in the district.

2. Governance. A city council or county board of supervisors governs a business improvement district (BID). A county may not establish a BID within a city's limits without the city's consent; a city may not create a BID in another city or in an unincorporated part of the county without those agencies' consent.

3. Initiating the Formation. Property owners who will pay more than 50% of the proposed assessments must petition their city or county. In the petition, no single landowner's property can exceed 40% of the total assessment. A property owner's petition must include a management district plan with:

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- a. The district's name.
- b. A map of the district.
- c. A description of the district's boundaries, including the boundaries of any benefit zones.
- d. The proposed improvements and activities.
- e. The district's maximum costs.
- f. The total amount proposed to pay for improvements, maintenance, and operation in each year.
- g. The proposed basis for levying the assessment.
- h. The time and manner for collecting the assessment.
- i. The length of the assessment (five years or less).
- j. The date for completion of the management plan.
- k. Any proposed rules or regulations.
- l. A list of properties proposed to be benefitted.
- m. The method used to apportion expenses.

After property owners submit their petition, the city may adopt a resolution of intention to form a BID. The resolution of intention must include the district management plan. The city must also publish the resolution of intention in a newspaper seven days before the public meeting and mail notices to property owners and chambers of commerce 10 days before the public meeting.

If a city council proposes to levy a new or increased benefit assessment, notice is to be given pursuant to the Ralph M. Brown Act. In addition, the city council is required to publish the resolution of intent in a newspaper of general circulation in the city once, at least seven days before the public meeting and is also required to mail the resolution of intention by first class mail to each property owner in the district and to each local chamber of commerce and business organization known by the city council to be located within the proposed district not later than 10 days before the meeting.

4. Establishing the District. At the public hearing, the city must hear protests against the BID proposal. If property owners who will pay 50% or more of the assessment sign written protests, the BID and assessment proposals must cease for one year. If the majority protests solely against the furnishing of a specified type or types of improvements, those improvements or activities must be eliminated from the proposal. In any majority protest, no one landowner can control more than 40% of the protests, regardless of the percentage of the proposed assessments he or she will pay.

If no majority protest exists, or if the majority protest has been eliminated, the city may adopt, modify, or revise the proposed assessments, improvements, and activities. However, the boundaries can only be modified to exclude properties which would not benefit from the improvements or activities.

If a majority protest exists against action to modify the boundaries, activities, improvements, or basis for apportioning costs, those changes must stop for one year.

If the city does not adopt changes, or adopts only minor changes after the hearing, the city may adopt a resolution establishing the district and containing:

- a. The district management plan.
- b. The number, date, and title of the resolutions of intention and preliminary adoption.
- c. The time and place of the public hearing.
- d. A determination of protests.
- e. A statement that a district has been formed.
- f. A statement that assessments will pay for the district's improvements and activities.
- g. A statement that all activities and improvements will be within the district's boundaries, except as specified by the resolution of intention.
- h. A finding that property within the district benefits from the proposed improvements and activities.

If the city adopts any substantial changes at the hearing, it must adopt a resolution of preliminary adoption with the same information required by a resolution establishing a district and a statement that properties are subject to the proposed changes. Not earlier than 30 days after adopting a resolution of preliminary adoption, the city council may adopt a resolution establishing the district and levying the assessment.

The city may divide the district into zones based on the degree of benefit derived from the district's improvements and activities. Different zones may be assessed at different rates. The city creates, modifies, and dissolves zones in the same manner as BIDs.

5. Assessments. BID assessments must be levied on property on the basis of estimated benefit to that property. No assessments can be levied on non-taxable or private residential properties. The city can make the assessment a priority lien on the real property and can have the assessment collected with

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ad valorem property taxes. Any legal challenges to BID assessments must be filed within 30 days of the adoption of the ordinance levying the assessment.

6. Advisory Board. The city must appoint an advisory board. The advisory board recommends an expenditure plan, property classifications, and the method for levying assessments. The city may also create additional advisory boards, but at least one member must be a business licensee within the district. Advisory boards must comply with the Brown Act.

The advisory board must prepare a report each fiscal year that the city imposes BID assessments. The report may propose changes to the district or its zones, and it must contain:

- a. Proposed boundary changes.
- b. The improvements or activities to be provided in that fiscal year, and an estimate of their costs.
- c. The basis and method for levying the assessment.
- d. The amount of surplus or deficit to be carried over from a previous fiscal year.
- e. Any non-assessment contributions. The city or county may approve the report, or change it.

7. Subsequent District Modifications. If the advisory board requests, the city council may modify the management district plan after holding a majority protest hearing. A city proposing to modify a BID must adopt a resolution of intention and hold a hearing not more than 60 days later. The city must provide notice of the public hearing.

8. Disestablishment. If there is no outstanding indebtedness, a city may dissolve a BID for malfeasance, misappropriation of funds, or violations of law.

Each year, there must also be a 30-day period when assessees who pay 50% or more of the district's assessments may request the BID's dissolution. If property owners paying 50% or more of the district's assessments file a petition, the city must pass a resolution of intention to dissolve the district. A single landowner cannot control more than 40% of the protests, regardless of the percentage of the proposed assessments he or she pays.

The city council must notice the disestablishment hearing by publishing the notice in a newspaper, and mailing notice to affected landowners and chambers of commerce. The city must notice its intent to dissolve the district, including the reason, before

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holding a public meeting. The city must hold the hearing 20 to 30 days after adopting the resolution, and must publish notice of the meeting one time in a newspaper. After a district is dissolved, the city must refund the remaining revenues to the property owners.

* * *

Members of the working group will be available at the Committee's hearing(s) to answer any questions.

Very truly yours,

JAMES K. HAHN, City Attorney

By



PATRICIA V. TUBERT

Deputy City Attorney

PVT:pe
(213) 485-5416

Attachment

ATTACHMENT -- FPPC LETTER



California Fair Political Practices Commission

CITY ATTORNEY
LAND USE/ENVIRONMENT
RECEIVED

ALJC 22 1994

August 17, 1994

Anthony Saul Alperin
Office of the City Attorney
City of Los Angeles
Eighteenth Floor, City Hall East
200 N. Main Street
Los Angeles, CA 90012-4131

Re: Your Request for Informal
Assistance
Our File No. I-94-177

Dear Mr. Alperin:

This letter is in response to your request for advice concerning the status of an Advisory Board of the Broadway Business Improvement District under the Political Reform Act (the "Act").¹ You have indicated that the contract detailing the operating procedures and administrative responsibilities of the Advisory Board is currently being negotiated; we are, therefore, providing you with informal assistance pursuant to Regulation 18329.²

Please note that nothing in this letter should be construed to evaluate any conduct which may have already taken place. In addition, this letter is based on the facts presented to us. The Commission does not act as the finder of fact in providing advice. (In re Ogelsby (1975) 1 FPPC Ops. 71.) Further, the Commission's advice is limited to the provisions of the Act.

QUESTION

Is the Advisory Board of the Broadway Business Improvement District, formed pursuant to Parking and Business Improvement Area Law of 1989 (Streets & Highways Code Section 36500, et seq.) (the

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations, Sections 18000-18954. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

"BID Act") a "local government agency" and are members of the Board "public officials" within the meaning of the Act?

CONCLUSION

The Advisory Board is a "local government agency" and the persons serving on the Board are "public officials" within the meaning of the Act.

FACTS

The California Legislature enacted the BID Act to promote the economic revitalization and physical maintenance of the business districts of California cities. It accomplishes this by allowing those cities to fund property related improvements and activities through the levy of assessments upon businesses which benefit from those improvements and activities. If a local government chooses to establish a Business Improvement District, all businesses located within the district become subject to the assessment levied by the city.

The BID Act provides that the city council of a city establishing a BID shall appoint an Advisory Board. The statutory duties of such an Advisory Board include the preparation of a report for each fiscal year for which assessments are to be levied and collected to pay the costs of the improvements and activities described in the report. Such a report may propose changes in the boundaries of the district, improvements and activities to be provided during the year, the basis and method for levying assessments and changes in the classification of businesses within the district. After reviewing and approving the report, the city council is required to adopt a "resolution of intention to levy an annual assessment for that fiscal year" and to take other actions as it deems appropriate, based on the recommendations of the Advisory Board. The city council may designate existing advisory boards or commissions to serve as the Advisory Board for that purpose.

The Los Angeles City Council (hereafter "city council") has established the Broadway Business Improvement District (BBID) for an area within the city's downtown business district. In accordance with Streets & Highways Code Section 36530, the ordinance establishing the BBID provides that the city council shall appoint an Advisory Board for the BBID. In addition to adopting the ordinance, the city council has instructed the city attorney and the city clerk to negotiate a contract between the city and a private, nonprofit organization, Miracle on Broadway Corporation, for the operation of the BBID and the administration of funds paid pursuant to the assessment authorized by the ordinance and the BID Act. You have indicated that although the contract terms have not yet been finalized, it is expected that the contract will authorize Miracle on Broadway, through the Advisory Board that is expected to serve as the board of directors of Miracle on Broadway, to negotiate and enter into contracts to

perform the improvements and activities previously approved by the city council as part of the BBID annual budget. The contract with Miracle on Broadway will also set forth detailed operating procedures and administrative responsibilities of the Advisory Board.

ANALYSIS

A "local government agency" is defined as:

[A] county, city or district of any kind including school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency of the foregoing.

Section 82041, (emphasis added).

Acting under the authority of the Parking and Business Improvement Area Law of 1989 (Streets & Highways Code Section 36500, et seq.), the Los Angeles City Council, by ordinance, established the Broadway Business Improvement District. That ordinance also created the Advisory Board of the Broadway Business Improvement District. Such a board created by a local government agency, the City of Los Angeles, is, on its face, a local government agency under Section 82041.³

³ You have cited the Commission's opinion in In re Siegel, 3 FPPC Ops. 62 (1977) to support your conclusion that the Advisory Board established by the Los Angeles city ordinance is a local government agency. However, the Commission's opinions in Siegel and In re Leach 4 FPPC Ops. 48 (1978) dealt with the issue whether private entities "become so suffused with attributes of sovereignty as to be considered public in nature." (In re Vonk, 6 FPPC Ops. 1 (1981).) In the Siegel Advice Letter, No. A-83-015, the Commission considered the question whether the Southeast Animal Control Authority, an agency formed pursuant to a joint powers agreement, was a local government agency. While concluding that the Authority was a local government agency the Commission stated:

[I]t is not necessary to go through an analysis of the Siegel [opinion] factors to determine that the Authority is an "agency" which is required to adopt a Code. The Pico Rivera Water Development Corporation [the agency in question in the Siegel opinion] was formed as a nonprofit corporation for the purpose of acquiring and operating a water system. Thus, on its face, the Pico Rivera Water Development Corporation was a private entity. Nevertheless, the Commission held that whether an entity is private or public within the meaning of the Act would depend on the true

Section 82048 states in relevant part:

"Public official" means every member, officer, employee or consultant of a state or local government agency, ...

Section 82048, (emphasis added).

Accordingly, a person who serves on the Advisory Board is a "public official" if he or she is a "member, officer, employee or consultant" of the Advisory Board. (Section 82048.)

Regulation 18700 states in relevant part:

"Member" shall include, but not be limited to, salaried or unsalaried members of boards or commissions with decisionmaking authority. A board or commission possesses decisionmaking authority whenever:

(A) It may make a final governmental decision;

(B) It may compel a governmental decision; or it may prevent a governmental decision either by reason of an exclusive power to initiate the decision or by reason of a veto which may not be overridden; or

(C) It makes substantive recommendations which are, and over an extended period of time have

nature of the entity and developed four criteria for determining an entity's true nature. In the case of the Authority, however, we have an entity that is clearly public on its face; Sections 6500, et seq., authorize public agencies to enter into an agreement for the joint exercise of a common power. Accordingly, the Siegel [opinion] criteria are not necessary to determine that the Authority is an "agency" within the meaning of the Act.

Siegel Advice Letter, No. A-83-015.

Therefore, it is not necessary to apply the Siegel [opinion] factors to determine that the Advisory Board created by ordinance by the Los Angeles City Council is a local government agency within the meaning of Section 82041.

been, regularly approved without significant amendment or modification by another public official or governmental agency.

Regulation 18700(a)(1).

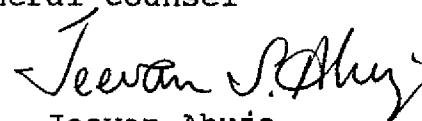
You have indicated that the city council has instructed the city attorney and the city clerk to negotiate a contract between the city and Miracle on Broadway for the operation of the Broadway Business Improvement District and the administration of the funds paid pursuant to the assessment authorized by the ordinance and the BID Act. You believe that the contract will authorize Miracle on Broadway, through the Advisory Board that you expect will serve as its board of directors, to negotiate and enter into contracts to perform the improvements and activities previously approved by the council as part of the Broadway Business Improvement District annual budget. Since it appears that the Advisory Board will be responsible for negotiating and entering into contracts to perform the improvements and activities previously approved, the Advisory Board is making final governmental decisions. Under these circumstances, the persons who serve on the Advisory Board are deemed to be "members", and, therefore, "public officials," within the meaning of Regulation 18700(a)(1). (Section 82048.)

Accordingly, we conclude that the Advisory Board of the Broadway Business Improvement District is a "local government agency" and the persons serving on the Board are "public officials" within the meaning of the Act.

I trust the above discussion responds to your questions. Should you have any further questions regarding this issue, please contact me at 916/322-5901.

Sincerely,

Steven G. Churchwell
General Counsel



By: Jeevan Ahuja
Staff Counsel, Legal Division

CITY OF LOS ANGELES

CALIFORNIA



ELIAS MARTINEZ
City Clerk

J. Michael Carey
Executive Officer

When making inquiries
relative to this matter
refer to File No.

94-0866

RICHARD J. RIORDAN
MAYOR

Office of
CITY CLERK
Council and Public Services
Room 395, City Hall
Los Angeles, CA 90012
Council File Information - (213) 485-5703
General Information - (213) 485-5705

Pat Healy
Chief Legislative Assistant

PLACE IN FILES

JUN 20 1994

SECURITY

June 16, 1994

Councilmember Walters
Councilmember Ridley-Thomas
Councilmember Goldberg
City Administrative Officer
Chief Legislative Analyst

Community Development Department
City Clerk, Attn: Mike Carey
Community Redevelopment Agency
City Attorney

RE: DEVELOPING A COMPREHENSIVE CITY POLICY ON THE FORMATION, FUNDING
AND OPERATION OF BUSINESS IMPROVEMENT DISTRICTS, AND REPORTING
ON CURRENT STATE LEGISLATION

At the meeting of the Council held June 14, 1994, the following
action was taken:

- Attached report adopted.....
Attached motion adopted (Walters - Ridley-Thomas), as amended.. X
Attached resolution adopted.....
Ordinance adopted.....
Motion adopted to approve attached report.....
Motion adopted to approve attached communication.....
To the Mayor for concurrence.....
To the Mayor FORTHWITH.....
Mayor concurred.....
Appointment confirmed.....
Findings adopted.....
Negative Declaration adopted.....
Categorically exempt.....
Generally exempt.....
EIR certified.....
Tract map approved for filing with the County Recorder.....

Elias Martinez

City Clerk
bem

steno!940866



TO CITY CLERK FOR PLACEMENT ON NEXT
REGULAR COUNCIL AGENDA TO BE POSTED
MOTION

#61

JUN 03 1994

The Business Improvement District (BID) concept has gained increasing popularity with local business groups attempting to provide an increased level of service in the face of reduced City finances.

Various groups throughout the City have expressed a strong interest in forming BIDs and in the interest of consistent and equal treatment for all groups it is imperative that the City develop an overall policy on BID formation, funding and operation.

I THEREFORE MOVE that the City Attorney with the assistance of the Community Development Department, the Chief Legislative Analyst and the City Clerk be directed to develop and present for Council approval within 60 days a comprehensive City policy on the formation, funding and operation of Business Improvement Districts (BIDs) including a report on related matters such as the City staff time and costs involved in the establishment and operation of BID's; *and I further move, that the CLA, in consultation with the City Attorney, Community Development Department and City Clerk, BE REQUESTED to evaluate and make recommendations to Council regarding pending State legislation that extends Business Improvement District authority from one to five years. (Goldberg & Walters)

PRESENTED BY

Rita Walters

Councilwoman, 9th District

SECONDED BY

Mark Ridley-Heck

June 3, 1994

JUN 10 1994 - Continued to June 14, 1994

ak

MD
ADOPTED
**AS AMENDED*
JUN 14 1994

LOS ANGELES CITY COUNCIL

102 VOTES ON COUNCIL

102 VOTES ON COUNCIL
ADOPTED

102

JLE 16 MOTION (WALTERS-RIDLEY-THOMAS) ADOPTED, AS AMENDED

MEMO NO.	YES	NO	ABSTINENCE	DATE	TIME		
47	14	0	1	06/14/94	13 16 38		
ARCON	YES	BERNSTON	YES	BRAUDE	YES	CHICK	YES
LANTER	YES	GOLDBERG	YES	HERNANDEZ	YES	HOLDEN	YES
RIDLEY-THOMAS	YES	SVORINICH	YES	WACHS	YES	WALTERS	YES
ROSLAVSKY	YES	FERRARO	YES	ALATORRE	ABS		

RECORDS COMPILED AND TO BE HOUSED
IN THE COUNCIL RECORDS DEPARTMENT FOR REVIEW
WITHIN ONE MONTH OF THIS DATE

Hot

13
CALLED SPECIAL

COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE
Report/Communication for Signature

Council File Number 94-0866

Committee Meeting Date 5-16

Council Date 5-24

COMMITTEE MEMBER	YES	NO	ABSENT
COUNCIL MEMBER HERNANDEZ, Chair	/		
COUNCIL MEMBER WALTERS	/		
COUNCIL MEMBER WACHS			/

Remarks Downtown Property owner's
Association loan

Adrienne Bass, Legislative Assistant ♦♦♦ Telephone 237-0379

CITY COUNCIL
SUGGESTED NOTIFICATION OF COUNCIL ACTION

Council File No. _____

Petitioner/Communicant _____

Councilperson(s) _____

WALTERS - RIDLEY - THOMAS - GOLDBORG

City Admin. Officer

Chief Legislative Analyst

Treasurer

Building and Safety

Fire Commission

General Services

Police Commission

Public Works (Board)

Planning Department

Water and Power Department

GDD

CITY CLERK

ATTN: PAT HEALY

CPA

-

-

-

City Attorney

Controller

Information Services Dept.

City Clerk Tax and Permit

Fire Department

Personnel Department

Police Department

Public Works - Engineering

Transportation

CITY OF LOS ANGELES

CALIFORNIA

ELIAS MARTINEZ
City Clerk

J. Michael Carey
Executive Officer

When making inquiries
relative to this matter
refer to File No.

94-0866



RICHARD J. RIORDAN
MAYOR

Office of
CITY CLERK
Council and Public Services
Room 395, City Hall
Los Angeles, CA 90012
Council File Information - (213) 485-5703
General Information - (213) 485-5705

Pat Healy
Chief Legislative Assistant

May 31, 1994

Councilmember Walters
Councilmember Alatorre
City Administrative Officer
Chief Legislative Analyst
Community Development Department
Community & Economic Development Committee Clerk
Attn: A. Bass

Controller: Room 200
Accounting Division F & A
Disbursement Division
City Attorney
Community Redevelopment Agency
Honorable Richard Riordan, Mayor

RE: ESTABLISHMENT OF BUSINESS ASSESSMENT DISTRICTS IN
COUNCIL DISTRICTS 9 & 14 .

At the meeting of the Council held May 24, 1994, the following
action was taken:

Attached report adopted.....
Attached motion adopted as amended (Alatorre - Walters) X
Attached resolution adopted.....
Ordinance adopted.....
Motion adopted to approve attached report.....
Motion adopted to approve attached communication.....
To the Mayor for concurrence.....
To the Mayor FORTHWITH.....
Mayor concurred.....
Appointment confirmed.....
Findings adopted.....
Negative Declaration adopted.....
Categorically exempt.....
Generally exempt.....
EIR certified.....
Tract map approved for filing with the County Recorder.....
Parcel map approved for filing with the County Recorder.....
Bond approved is No. _____ of Contract.....
Resolution of acceptance of future street to be known as

A handwritten signature in black ink that reads "Elias Martinez".

City Clerk
CRM
steno\940866



94-0866

13A

M O T I O N

I MOVE that as a substitute for the recommendations in Item 13 on today's Council Agenda, the following be adopted:

1. AUTHORIZE the General Manager, Community Development Department (CDD), to negotiate and execute a sole-source contract with the Downtown Property Owner's Association for an amount not to exceed \$150,000 for the period of May 1, 1994 through April 30, 1995, for the scope of services described in Attachment II of the CDD transmittal dated May 5, 1994, and using the pro forma contract contained in Attachment III of said transmittal.
2. AUTHORIZE the Controller to:

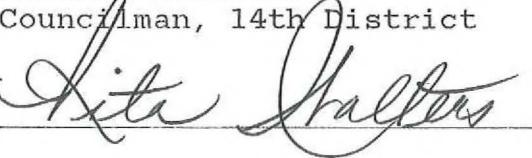
- a. Transfer appropriations within Community Development Trust Fund No. 424 as follows:

	<u>Account</u>	<u>Title</u>	<u>Amount</u>
From:	E216	Small Business Technical Assistance	\$150,000
To:	HXXX	Clean and Safe Business Improvement District	\$150,000

- b. Expend up to \$150,000 for a contract with the Downtown Property Owners Association from the Community Development Trust Fund No. 424, Account HXXX, Clean and Safe Business Improvement District, upon proper demand of the General Manager, CDD.

PRESENTED BY: 

Richard Alatorre
Councilman, 14th District

SECONDED BY: 

*3. DIRECT the Community Development Department and Community Redevelopment Agency to report back to Council within two weeks relative to establishing a process whereby other business districts can be assisted in setting up similar business assessment improvement districts to provide maintenance, cleaning and security in public areas.

MD

*(Walters - Alatorre)

ADOPTED
***AS AMENDED**
MAY 24 1994

LOS ANGELES CITY COUNCIL

WISCONSIN
CITY COUNCIL
ADOPTED

MOTION (ALATORRE - WALTERS) ADOPTED AS AMENDED SINCE COUNCIL RPT

TIME:

AGENDA NO.	YES	NO	ABS	DATE	TIME
13A	13	0	2	05/24/94	11 01 31
ALARCON..... YES	ALARTE..... YES	BERNSTON..... YES	BRAUDE..... YES		
CHICK..... YES	GALANTER..... YES	GOLDBERG..... YES	HOLDEN..... YES		
RIDLEY-THOMAS YES	SVORINICH..... YES	WACHS..... YES	WALTERS..... YES		
HERRARO..... YES	HERNANDEZ.... ABS	YAROSLAVSKY... ABS			

WAS SUBMITTED WITHOUT Recommendation

13A

TO THE COUNCIL OF THE
CITY OF LOS ANGELES

YOUR COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

reports as follows:

	<u>Yes</u>	<u>No</u>
Public Comments	<u>XX</u>	<u> </u>

COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE REPORT relative to contract with Downtown Property Owner's Association to establish an assessment district to provide maintenance, cleaning and security for public areas in Council Districts 9 and 14.

Recommendation for Council action:

SUBMITS WITHOUT RECOMMENDATION (Hernandez voted yes and Walters voted no) the following recommendation of the City Administrative Officer and SUBJECT TO THE APPROVAL OF THE MAYOR:

1. AUTHORIZE the General Manager, Community Development Department (CDD), to negotiate and execute a sole-source contract with the Downtown Property Owner's Association for an amount not to exceed \$150,000 for the period of May 1, 1994 through April 30, 1995, for the scope of services described in Attachment II of the CDD transmittal dated May 5, 1994 and using the pro forma contract contained in Attachment III of said transmittal.

2. AUTHORIZE the Controller to:

A. Transfer appropriations within Community Development Trust Fund NO. 424 as follows:

Account	Title	Amount
From: F232	Disaster Assistance Loan	
	Writedown Program	\$150,000
To: HXXX	Clean and Safe Business	
	Improvement District	\$150,000

B. Expend up to \$150,000 for a contract with the Downtown Property Owners Association form the Community Development Trust Fund No. 424, Account HXXX, Clean and Safe Business Improvement District, upon proper demand of the General Manager, Community Development Department.

Summary:

The City Administrative Officer (CAO) reports the Community Development Department (CDD) has proposed the City enter into a one year, \$150,000 contract, with a private, non-profit entity to

develop a "Clean and Safe Business Improvement Assessment District" (BID) project in the downtown area, Council Districts 9 and 14. CDD proposes funding the project with reprogrammed CDBG funds. This project will consist of planning and developing activities required to establish an assessment district to provide maintenance, cleaning and security for public areas adjacent to businesses in specified areas of these two council districts.

CDD proposes that BID will be developed through a contract with the Downtown Property Owner's Association (DPOA), a group of over 250 commercial property owners. DPOA will supplement approximately \$83,000 in matching funds or in-kind services for the total project cost of \$233,000. CDD reports that funds will be used to hire staff and consultants to develop an annual budget, select boundaries for the district, establish an assessment system, produce and distribute information to promote the district, conduct workshops to inform affected businesses and to represent the district before governmental agencies.

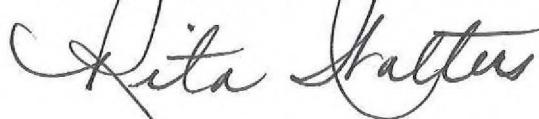
The CAO further states that, since DPOA has offered to contribute a significant portion of the overall cost to develop the project and it is comprised of downtown property owners who will be affected by the BID, they concur in CDD's recommendation to award a sole-source contract.

The \$150,000 in reprogrammed funds was previously allocated to the Writedown Loan program which was established to help deal with the need for economic assistance following the 1992 civil disturbances. This program has been terminated; therefore, CDD recommends the use of these funds in order to meet an August 1, 1994 deadline established by the Los Angeles County Assessor's Office.

At its regular meeting on May 16, 1994, the Community and Economic Development Committee considered this matter. Councilmember Mike Hernandez, Chair of the Committee voted to approve the CAO recommendations and Rita Walters, Vice-Chair, voted to disapprove. Therefore, the matter has been forwarded to Council Without Recommendation.

Respectfully submitted,

COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE



AB
5-17-94

MAY 24 1994 - INASMUCH AS C&ED REPT WAS
SUBMITTED WITHOUT RECOMMENDATION,
MD.(ALATORRE-WALTERS) AS AMENDED
WAS ADOPTED - SEE ATTACHED

Report From
CITY ADMINISTRATIVE OFFICER
Analysis of Proposed Contract

To The Community & Economic Development Committee	Date 5/16/94	C.D No. 9 & 14	CAO File No. 0220-00821-0015
Reference Community Development Department transmittal dated May 5, 1994		Term One year, May 1, 1994 through April 30, 1995	

Type of Document:	<input checked="" type="checkbox"/> New contract	<input type="checkbox"/> Amend.	<input type="checkbox"/> Other
Source of Funds	Community Development Block Grant (Reprogram of Funds currently allocated to the terminated "Writedown Loan Program")		
Project Title	Clean and Safe Business Improvement District (BID) Project		
Parties	City; Downtown Property Owners Association (DPOA)		
Business headquarters address:	1100 East Ninth Street, Suite B-73,	Los Angeles, CA 90079	
Street	City	State	Zip
Contract/Amendment Amount:			
Proposed amount \$	150,000	+ Prior award(s) \$	- 0 -
		= Total \$	150,000
Purpose of Contract/Amendment			

To establish an Assessment District to provide a program of maintenance, cleaning and security for public areas adjacent to businesses located in the downtown area.

	Yes	No	N/A*		Yes	No	N/A*
1. Council has approved the purpose.		X		7. Contractor has complied with:			
2. Appropriated funds are available	X			A. Affirmative action program.			X
3. City employees can perform the work.		X		B. Business tax requirements.	X		
4. Proposals have been requested.		X		C. Job training and employ. policy.			X
5. Risk mgmt. review has been completed.	X			D. MBE / WBE policy.			X
6. Contractor has a stated child care policy.			X	8. Form Gen. 15 (So. Africa) filed on:		/ N/A	
Comments				9. City resident workforce:		100	%

The Community Development Department (CDD) has proposed that the City enter into a one year, \$150,000 contract with a private, non-profit entity to develop a "Clean and Safe Business Improvement Assessment District" (BID) project in the downtown area. The proposed project is to be funded with \$150,000 in reprogrammed Community Development Block Grant (CDBG) funds. It will consist of planning and development activities required to establish an assessment district to provide maintenance, cleaning and security for public areas adjacent to businesses in specified areas of Council Districts 9 and 14.

In accordance with the CDD proposal, the BID will be developed through a contract with the Downtown Property Owners Association (DPOA), a group of over 250 commercial property owners. The proposed term of the contract will be retroactive from May 1, 1994 through April 30, 1995. The total project will cost \$233,000 and will consist of the proposed \$150,000 agreement supplemented with approximately \$83,000 in matching funds or in-kind services from DPOA. These funds will be utilized to hire staff and

(Comments continued)

*N/A = Not applicable

<i>Michael Graham</i> MG:dbu	<i>Mark DeRosa</i> Analyst 23730C50	<i>K. Conrad</i> Asst. City Administrative Officer
		City Administrative Officer

consultants to develop an annual budget, select boundaries for the district, establish an assessment system, produce and distribute information to promote the district, conduct workshops to inform affected businesses about the district and represent the district before governmental agencies.

Since DPOA has offered to contribute a significant portion of the overall cost to develop the project and is comprised of downtown property owners who will be affected by the BID, CDD has recommended that the contract be awarded to DPOA on a sole-source basis. The City Attorney has reviewed, and concurs with, this determination.

The \$150,000 in reprogrammed CDBG funds was previously allocated to the Writedown Loan program. This program was established to help deal with the community's need for economic assistance following the Spring, 1992 civil disturbances. CDD reports that the program has been terminated. Currently, there is a balance of \$2,728,869 in uncommitted CDBG funds in this particular program. CDD has indicated that these funds represent a portion of a total of \$3.8 million in CDBG funds which will be proposed for reprogramming in the near future as part of the 20th year CDBG budget.

The proposed agreement and reprogramming of this \$150,000 is being recommended at this time in order to meet an August 1, 1994 deadline established by the Los Angeles County Assessor's Office. If approved, the assessment district will have to be established by this date in order for the project to be effective and generate income this year. If this deadline is not met the BID assessment collection cycle will not begin until October, 1995.

RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

1. Authorize the General Manager Community Development to negotiate and execute a sole-source contract with the Downtown Property Owner's Association for an amount not to exceed \$150,000 for the period of May 1, 1994 through April 30, 1995 for the scope of services described in Attachment II of the Community Development Department transmittal dated May 5, 1994 and using the pro forma contract contained in Attachment III of said transmittal;
2. Authorize the Controller to:
 - A. Transfer appropriations within Community Development Trust Fund No. 424 as follows:

Account	Title	Amount
From: F232	Disaster Assistance Loan Writedown Program	\$ 150,000
To: HXXX	Clean and Safe Business Improvement District	150,000
B.	Expend up to \$150,000 for a contract with the Downtown Property Owners Association from the Community Development Trust Fund No. 424, Account HXXX, Clean and Safe Business Improvement District upon proper demand of the General Manager Community Development.	



COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE
SUGGESTED NOTIFICATION OF COUNCIL ACTION

Council File No. 94-0844

- Petitioner/Communicant _____
- Council Member(s) CD 9+14
- Chief Legislative Analyst (Mail Stop 136)
- City Administrative Officer (Mail Stop 130)
- Office of the Mayor (Mail Stop 370)
- Controller (Mail Stop 183)
- Treasurer (Mail Stop 750)
- General Services Department (Mail Stop 710)
- Department of Transportation (Mail Stop 725)
- City Planning Department (Mail Stop 395)
- Community Development Department (Mail Stop 854) *(Not filed)*
- Community Redevelopment Agency (Mail Stop 182)
- Board of Public Works (Mail Stop 465)
- City Attorney
- Private Industry Council
- A. Bon Ch. Ctr. Cate *(Not filed)*
- Calendar Secretary
- _____
- _____

I WISH TO BE HEARD BEFORE THE CITY COUNCIL

AGENDA ITEM NO. 13

TODAY'S DATE 5/16/94

I am speaking FOR AGAINST the Agenda Recommendation

COUNCIL FILE NO.: 92-0832-S55

SUBJECT: Downtown Properly Owners BID

Name: Bonne Bropy Rep Councilman

Street: Room 375, City Hall A Totone

City: _____

Telephone: _____

Are you speaking on your own behalf? YES NO

If NO, and you are being compensated to speak for or represent someone other than yourself, please disclose who you are representing:

Name: Councilmember A Totone

Street: _____

City: _____

(over)

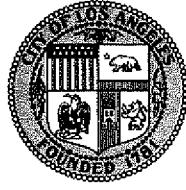
CITY OF LOS ANGELES

CALIFORNIA

ELIAS MARTINEZ
City Clerk

J. Michael Carey
Executive Officer

When making inquiries
relative to this matter
refer to File No.



RICHARD J. RIORDAN
MAYOR

Office of
CITY CLERK
Council and Public Services
Room 395, City Hall
Los Angeles, CA 90012
Council File Information - (213) 485-5703
General Information - (213) 485-5705

Pat Healy
Chief Legislative Assistant

94-0866

CW

May 16, 1994

COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

In accordance with Council Rules, communication from the General Manager, Community Development Department, relative to reprogramming of CDBG Funds, was referred on May 13, 1994, to the COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE.

A handwritten signature in black ink that reads "Elias Martinez".

City Clerk
amm



PARKER C. ANDERSON
GENERAL MANAGER

CITY OF LOS ANGELES

CALIFORNIA



RICHARD J. RIORDAN
MAYOR

MAY 05 1994

COMMUNITY DEVELOPMENT DEPARTMENT

215 W. 6TH STREET
LOS ANGELES, CA 90014
(213) 485-1617
FAX (213) 237-0551

TDD GENERAL INFORMATION
(213) 847-3771

TDD JOB TRAINING
(213) 847-3770

Council File Nos.:

92-0821-S2
92-0832-S2 & S12
92-0832-S55

Council Districts: Citywide

Contact person & Extensions:

Marilyn M. Lurie, X2952
Industrial & Commercial
Development Division

Honorable Richard J. Riordan
Mayor
City of Los Angeles
Room 305, City Hall

Los Angeles City Council
c/o City Clerk's Office
Room 395, City Hall

COMMITTEE TRANSMITTAL: REPROGRAMMING OF CDBG FUNDS

DEADLINE FOR MAYOR'S ACTION

One of the activities anticipated to be funded by this action needs to be completed by August 1, 1994. Therefore we are requesting that the Mayor take action as expeditiously as possible.

SUMMARY

The Community Development Department requests approval to reprogram \$3.8M in Community Development Block Grant Funds (CDBG). These funds are the remaining balances in two disaster loan programs that have been terminated.

BACKGROUND

Following the Civil Unrest in April, 1992, the Community Development Department, in cooperation with the Mayor's Office and the Small Business Administration (SBA) established two disaster loan programs. The first of these was a Write Down Loan Program administered by the Community Development Department. Under this program, businesses

JUNNITY & ECON DEV
MAY 13 1994



MAY 05 1994

Honorable Richard J. Riordan
Los Angeles City Council

-2-

approved for funding by the SBA Disaster Loan Program were eligible for loans from the City of up to \$50,000 to cover losses not completely covered by the SBA. The second program was the Emergency Disaster Loan Program administered by the Mayor's Office. Under this program businesses turned down by the SBA were eligible for loans of up to \$25,000.

A total of \$5,201,199 of CDBG funds were originally allocated to the two programs by City Council and the Mayor (C.F. 92-0821-S2) on June 5, 1992. Of this amount, \$450,000 was transferred to the Mayor's Office and used to match EDA funds (\$950,000) for the Emergency Disaster Loan Program. The balance of \$4,751,199 was allocated to the Write Down Loan Program.

On November 10, 1993 (C.F. #92-0832-S2&S12) City Council approved the transfer of \$1,150,000 from the WDL to the EDL. On February 8, 1994 (C.F. #92-0832-S55) City Council approved the transfer of \$291,243 from the WDL to be used for entrepreneurial training. All of these transactions are summarized below:

	<u>WDL</u>	<u>EDL</u>	<u>Total</u>
Original allocation	\$4,751,199	\$ 450,000	\$5,201,199
Changes:			
Exchanged	(1,150,000)	1,150,000	-0-
Transferred out	(291,243)		(291,243)
Adjusted Amounts	3,309,956	1,600,000	4,909,956
Commitments	<u>(581,087)</u>	<u>(450,000)</u>	<u>1,031,087</u>
Balance Available	\$2,728,869	\$1,150,000	\$3,878,869

The two loan programs described above have been terminated, leaving \$3,878,869 in unused funds. A close out report on the WDL is currently being completed and will be forwarded to City Council by May 15, 1994. In the meantime the Department is recommending that the balance of funds be reallocated to other economic development activities. As many of these activities are related to the Department's 20th year CDBG budget for economic development, both the 20th year budget (submitted to City Council and the Mayor in a separate transmittal) and the recommended reprogramming are identified in Attachment I.

At this time the Department is presenting the reprogramming plan for information purposes only. It is anticipated that the majority of these funds will be considered and approved along with the entire 20th year CDBG request. The one exception is the Clean and Safe Business Improvement District (BID) project, which has a County Assessor's deadline of August 1, 1994 in order to make the assessment effective this current year. If this deadline is missed the implementation will be delayed one year.

Honorable Richard J. Riordan
Los Angeles City Council

-3-

MAY 05 1994

The BID is being developed by the Downtown Property Owners Association (DPOA) a group of more than 250 property owners in the downtown area. Once established, the BID will be financed by a majority of the property owners included in the proposed District. Funds provided by the businesses will be used to provide ongoing maintenance, cleaning and security. The project will also employ a number of previously homeless persons to remove graffiti and maintain the area.

Currently \$150,000 in additional funds are needed by the DPOA for the planning and development work to establish the BID. Funds will generally be used to hire staff and consultants to work with a Steering Committee to develop an annual program and budget for a BID, select boundaries for the District, establish an assessment system, prepare information packages and conduct public information workshops for businesses affected by the BID, secure necessary support, and present proposals to appropriate City and County staff officials. A more detailed scope of services is contained in Attachment II.

To develop the BID it is proposed that the City enter into a sole source contract with the DPOA. As it is comprised of property owners who will be impacted by the establishment of the BID the DPOA is best suited to perform the work needed. Further, the Association is contributing \$83,000 in matching funds and in-kind services. The contract will be for a period of one year from May 1, 1994 - April 30, 1995. DPOA will provide \$83,000 in matching funds or in-kind services.

RECOMMENDATIONS

The General Manager of the Community Development Department respectfully requests that:

- 1) Your office process this transmittal through the appropriate City Council Committee for review and approval;
- 2) The City Council authorize the General Manager of CDD to negotiate and execute a sole source contract with the Downtown Property Owners's Association for an amount not to exceed \$150,000 for the period May 1, 1994- April 30, 1995 for the scope of services described in Attachment II and using the pro forma contract contained in Attachment III.
- 3) The City Council authorize the Controller to transfer appropriation within Community Development Trust Fund No. 424 as follows:

From:	F232	Disaster Assistance Loan	
		Writedown Program	150,000
To:	HXXXX	Clean and Safe Business	
		Improvement District	150,000

Honorable Richard J. Riordan
Los Angeles City Council

-4-

MAY 05 1994

- 4) The City Council authorize the Controller to expend \$150,000 for Downtown Property Owners Association from Community Development Trust Fund No. 424 account HXXX Clean and Safe Business Improvement District upon proper demand of General Manager, CDD.
- 5) The Mayor concur with the action of the City Council.

A copy of this transmittal is being forwarded to the City Attorney for concurrent review and approval.



PARKER C. ANDERSON
General Manager

PCA:MML:hd

**COMMUNITY DEVELOPMENT BLOCK GRANT
ECONOMIC DEVELOPMENT FUNDS
PROPOSED REPROGRAMMING**

Program	20th Year Budget	Reprogramming	Total
Small Business Fund	\$2,599,738 a	\$800,000	\$3,399,738
Section 108 Loan Repayment	\$1,850,000	\$1,178,869	\$3,028,869
CFRC	\$500,000	\$500,000	\$1,000,000
Business Assistance Centers			\$0
Existing (Pacoima, E.S., S.C.)	\$600,000		\$600,000
New (Harbor & Hollywood)		\$400,000	\$400,000
Entrepreneurial Training	\$600,000	\$100,000	\$700,000
Entrepreneurial Loan Program		\$250,000	\$250,000
LANI		\$250,000	\$250,000
Clean & Safe BID		\$150,000	\$150,000
Commercial Revitalization			\$365,199
Existing (Eastside)	\$365,199 b		
Wilmington		\$150,000	
Lisc Health Initiative		\$100,000	
Non-profit Capacity Building	\$250,000		\$250,000
Total	\$6,764,937	\$3,878,869	\$10,643,806

a Includes \$729,886 of administrative costs

b Includes \$65,199 of administrative costs

ATTACHMENT II

**DOWNTOWN PROPERTY OWNERS ASSOCIATION
BUSINESS IMPROVEMENT DISTRICT
SCOPE OF SERVICES
MAY 1, 1994 - APRIL 30, 1995**

PROJECT TEAM

The organization of a Business Improvement District will be driven by a Steering Committee sponsored by the appropriate downtown association.

The project team provides the Steering Committee with the organization and information needed to make informed policy decisions that will benefit the neighborhood as a whole. The project team will facilitate the Steering Committee's decision making and support gathering process.

Staff support to the Steering Committee is provided by the DPOA Director and an administrative assistant familiar with community issues, needs, area, and players.

The DPOA Director is supported by a consulting firm specializing in the organization of assessment districts, the development of downtown management and promotion programs and the implementation of revitalization plans and procedures.

The project team will perform the following:

SCOPE OF SERVICES - PHASE I

- 1) Work with the Steering Committee to establish a Business Improvement District (BID). Explain the process of establishing a BID with reference to both legal requirements and methods which have been used successfully in other cities:
- 2) Assist the Committee in the development of:
 - a) Annual program for a BID, with recommendations as to emphasis placed on such activities as management, maintenance & security programs, physical improvements, promotions, etc. and the form and type of such activities.
 - b) Budget to finance an annual program, including administrative costs as well as direct program costs.
 - c) Boundaries for the BID based on creating a district that is large enough to provide a workable program and budget, but not so large as to include properties which cannot reasonably benefit from the program.

- d) Assessment system whereby property benefited by the program will be assessed fees to finance the program in reasonable proportion to the benefit received through assessment collection procedures to be administered and enforced by the appropriate agency.
 - e) Various alternative assessment formulas. Assist in the selection of a formula which is fair, understandable and effective in generation of sufficient revenue. It shall provide for ease and efficiency of assessment collection.
- 3) Review the possibility of establishing benefit zones within the proposed area, wherein assessments may be adjusted in accordance with the benefit to be received from various program activities.

SCOPE OF SERVICES - PHASE TWO

Upon completion of previous tasks and committee approval of proposed program, budget boundaries and assessment system the project team will assist the Steering Committee to:

- 1) Explain their proposal to those who would be subject to the assessment if the proposed BID is approved by the City Council. Prepare/distribute information package.
- 2) Circulate and submit to the City Council a written petition of majority support signed by those in the area who will pay more than 50 percent of the assessments proposed to be levied.
- 3) Present proposals to all appropriate city and county staff and officials.
- 4) Provide City staff with drafts of any ordinances, resolutions or agreements which are necessary or appropriate for the establishment of a BID.
- 5) Plan and conduct additional public information workshops and meetings as needed.
- 6) Represent assessment district advocates/supporters at all Public Hearings and assist with developing a support strategy.
- 7) Work with City Staff to prepare an agreement between the City and the downtown management organization designated to implement the BID program.
- 8) Assist management organization policy body with development of by-laws for new district oversight.
- 9) Direct and monitor phase-in of services and make organizational , operational, fiscal and interagency coordination recommendations as needed.